

Please note, these transcripts are not individually reviewed and approved for accuracy.

COMMITTEE MEETING
STATE OF CALIFORNIA
INTEGRATED WASTE MANAGEMENT BOARD
SUSTAINABILITY AND MARKET DEVELOPMENT COMMITTEE

JOE SERNA, JR., CALEPA BUILDING
1001 I STREET
2ND FLOOR
COASTAL HEARING ROOM
SACRAMENTO, CALIFORNIA

TUESDAY, SEPTEMBER 9, 2003

1:30 P.M.

TIFFANY C. KRAFT, CSR, RPR
CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 12277

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

COMMITTEE MEMBERS

Steven R. Jones

Cheryl Peace

Carl Washington

STAFF

Mark Leary, Executive Director

Julie Nauman, Chief Deputy Director

Michael Bledsoe, Acting Chief Counsel

Deborah Borzelleri, Staff Counsel

Maria Kakutani

Raffy Kouyoumdjian

Jim La Tanner

Michael Leao

Piper Miguelgorry

Nikki Mizwinski

Bill Orr

Kyle Pogue

Sarah Weimer

Tabetha Willmon

Patty Wohl, Deputy Director

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

Please note, these transcripts are not individually reviewed and approved for accuracy.

iii

APPEARANCES CONTINUED

ALSO PRESENT

Laurie Nelson, The Clorox Company

Steve Lautze, President, CARMDZ

Jim McCay, Clorox Company

Gregory Moriarity, Trans Western Polymers, Inc.

Ned Pendleton, Pactiv

Pete Price, Poly-America

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

INDEX

| | PAGE |
|--|------|
| Roll Call And Declaration Of Quorum | 1 |
| A. Waste Prevention And Market Development Deputy Director's Report | |
| B. Consideration Of The 2003 Waste Reduction Awards Program (WRAP) Winners -- (September Board Item 1) | 5 |
| Motion | 14 |
| Vote | 14 |
| C. Consideration Of Additional Awards From A Joint Offering Of The Reuse Assistance Grants For Fiscal Years 2002/2003 And 2003/2004 -- (Budget & Administration Committee Item B And September Board Item 2) | 12 |
| Motion | 14 |
| Vote | 14 |
| D. Consideration Of The Application To Renew The Riverside County Recycling Market Development Zone Designation -- (September Board Item 3) | 14 |
| Motion | 16 |
| Vote | 17 |
| E. Consideration Of The Feasibility Of A Loan Guarantee Leveraging Strategy And A Contract Concept To Implement Such A Strategy Using Funds From the Recycling Market Development Zone (RMDZ) Revolving Loan Program -- (September Board Item 4) | 17 |
| F. Consideration Of Plastic Trash Bag Manufacturers' Request For Exemption For Inability To Obtain Sufficient Quality Or Quantity Of Recycled Plastic Postconsumer Material To Demonstrate Compliance With The Plastic Trash Bag Law For The 2002 Reporting Period For The Following Companies: (1) Pactiv Corporation; (2) Poly-America, LP; (3) The Clorox Company; And (4) Trans Western Polymers, Inc. -- (September Board Item 5) | 47 |
| G. Diversion, Planning And Local Assistance Deputy Director's Report | 94 |

INDEX CONTINUED

| | PAGE |
|--|------|
| H. Consideration Of The Adequacy Of The Five-Year Review Report For The Countywide Integrated Waste Management Plan For Orange County -- (September Board Item 6) | 95 |
| Motion | 95 |
| Vote | 95 |
| I. Consideration Of A Request To Change The Base Year To 2000 For The Previously Approved Source Reduction And Recycling Element For The City Of Farmersville, Tulare County -- (September Board Item 7) | 95 |
| Motion | 100 |
| Vote | 100 |
| J. Consideration Of A Request To Change The Base Year To 2000 For The Previously Approved Source Reduction and Recycling Element For The City Of Exeter, Tulare County -- (September Board Item 8) | 95 |
| Motion | 100 |
| Vote | 100 |
| K. Consideration Of The Amended The Consolidated Waste Management Authority's Regional Agency Agreement For Tulare County -- (September Board Item 9) | 95 |
| Motion | 100 |
| Vote | 100 |
| L. Consideration Of The Adequacy Of The Five Year Review Report For The Yuba/Sutter Regional Waste Management Authority's Regional Agency Integrated Waste Management Plan -- (September Board Item 10) | 101 |
| Motion | 101 |
| Vote | 101 |
| M. Consideration Of The Proposed Compliance Schedule For Completing And Submitting The Source Reduction And Recycling Element, Household Hazardous Waste Element, And Nondisposal Facility Element By The Newly Incorporated City Of Goleta, Santa Barbara County -- (September Board Item 11) | 103 |
| Motion | 103 |
| Vote | 103 |

Please note, these transcripts are not individually reviewed and approved for accuracy.

vi

INDEX CONTINUED

| | PAGE |
|---------------------------|------|
| N. Adjournment | 104 |
| O. Reporter's Certificate | 105 |

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

1 PROCEEDINGS

2 CHAIRPERSON JONES: Welcome to today's
3 Sustainability and Market Development and Planning
4 Committee, Tuesday the 9th, at 1:30.

5 Jennine, could you call the roll.

6 SECRETARY BAKULICH: Peace?

7 COMMITTEE MEMBER PEACE: Here.

8 SECRETARY BAKULICH: Washington?

9 COMMITTEE MEMBER WASHINGTON: Here.

10 SECRETARY BAKULICH: Jones?

11 CHAIRPERSON JONES: Here. Thank you.

12 For the folks in the audience, anybody that would
13 like to address the Committee on any items, there are
14 speaker slips in the back. Go ahead and fill them out and
15 give them to Ms. Bakulich.

16 If you could, if you have telephones or cell
17 phones or pagers, just put them on vibrate or off, please.
18 And I think that's just about it.

19 Ms. Peace, any ex partes?

20 COMMITTEE MEMBER PEACE: Yes. I ran into Chuck
21 White and George Larson regarding C&D two.

22 CHAIRPERSON JONES: Mr. Washington.

23 COMMITTEE MEMBER WASHINGTON: I'm up to date.

24 CHAIRPERSON JONES: And I'm up to date.

25 Okay. Ms. Wohl.

1 DEPUTY DIRECTOR WOHL: Good afternoon, Chairman
2 Jones and Committee members. My name is Patty Wohl with
3 the Waste Prevention and Market Development Division. And
4 I'd like to take a few minutes to kind of update you on
5 some of the things that have been going on this month.

6 As you may know, an article about materials
7 exchange program run in the Sunday Parade section on
8 August 31st. Although the article did not mention Cal Max
9 specifically, it briefly mentioned a long-time Cal Max
10 user, Looney Bins, and also featured a reuse assisting
11 grant-funded project involving the reuse of a movie set
12 house as a school library.

13 The article then directed readers to the
14 parade.com website for more materials exchanged links, but
15 again there was no specific mention of Cal Max there, only
16 links to national directories of exchange programs.

17 However, even this oblique exposure resulted in a
18 truly substantial increase in the number of actual queries
19 to the Cal Max website. Traffic usually averages about
20 1,200 hits per week, but following the days of the article
21 is 23,000 queries. So obviously people were passing their
22 way through the process. So we'll be continuing to look
23 for more opportunities to get some exposure to the Cal Max
24 program.

25 In the arena of plastic, staff has been

1 diligently working on updating the supplier list for the
2 trash bags. The new list should be ready by September
3 15th. We're hoping to have about 100 companies on the
4 list supplying both low density and high density
5 polyethylene.

6 We have not received any comments on the proposed
7 permanent regulations establishing the violations of
8 penalties for noncompliance with RPPC laws. So that
9 should be coming forward in October without any issue.

10 We've also been meeting with the Department of
11 Finance regarding audits. They're going to begin doing
12 audits for us on the RPPC cases for compliance.

13 In addition, in the area of carpet, the Waste
14 Board submitted a letter of support to the US EPA in
15 response to their request for comments on the proposal to
16 include nylon carpet in USEPA's comprehensive procurement
17 guidelines. We stated that we strongly supported those
18 efforts and commented in three areas.

19 We agreed with their recommendation to exclude
20 fly ash and other fillers from counting towards recovered
21 content. We disagreed with the suggestion that a minimum
22 recycled content would be in conflict with industry
23 product stewardship goals, and we recommended that
24 recycled content requirements should apply to the
25 broadloom carpets, not just the tile carpets, as there is

1 a huge market share in that area.

2 We also in the related area received informal
3 notice that a grant proposal submitted by State and
4 Consumers Services Agency and with us in partnership to
5 develop a green carpet specification at a purchasing
6 cooperative over the next year was accepted by the US EPA.

7 In the arena of CT, conversion technology, we
8 received informal comments on the conversion technology
9 regs. We had a workshop on August 1st. Approximately 30
10 people were in attendance, including some phone
11 participants. All revisions were fairly minor. So we're
12 still on target for bringing those regulations back in
13 November.

14 And then lastly, just to mention that, as you may
15 have remembered, we had a Capital Park project and Ken
16 Decio, one of the staff from the organic section, has been
17 instrumental in persuading DCS to start using mulch in the
18 planting beds at Capital Park. This change, combined with
19 the new drip watering system, will save staff time and
20 reduce water usage.

21 This change in practice has taken literally years
22 to incorporate and will hopefully pave the way for a new
23 era and sustainable landscaping at Capital Park. The
24 project was a direct result of the Board providing funding
25 to review Capital Park landscape practices and provide

1 recommendations. So things are moving along in the
2 markets division.

3 That concludes my report.

4 CHAIRPERSON JONES: Questions, members? All
5 right.

6 Thank you very much.

7 Item Number 1.

8 DEPUTY DIRECTOR WOHL: Item Number 1, committee
9 Item B, consideration of the 2003 waste reduction WRAP
10 winners. And Piper Miguelgorry will present.

11 MS. MIGUELGORRY: Good afternoon, Board members
12 and Mr. Chair.

13 I would like to just give you a brief overview of
14 the WRAP program's premise, and that is that we recognize
15 the voluntary waste reduction efforts of all California
16 businesses and nonprofit organizations. Our process
17 begins in January and concludes in December. As you know,
18 we will have another item upcoming next month that will,
19 its purpose will -- its purpose will highlight ten of the
20 2,137 businesses that we're proposing you consider as WRAP
21 award winners with this item.

22 We have now entered the 11th year of the WRAP
23 program since we began in 1993. And we're proud to say
24 that our numbers of winners continue to rise. We have
25 more multiple site businesses that are interested in

1 applying for the WRAP award. And this year we have -- in
2 particular, we received 2,663 applications, of which 35 of
3 them have multiple sites statewide. And I'm also very
4 pleased to say that we have covered 54 of the 58 counties
5 that currently will have WRAP winners once this item has
6 been approved. So even some of the counties that have not
7 entered before are now interested in this program.

8 And I wanted to just give one quick example of a
9 business, one of our larger corporations, Safeway.
10 Although I didn't have an opportunity at this time to
11 bring you an example, but they are putting our WRAP logo,
12 and various recycling messages as well, on their grocery
13 bag, and that's new this year. So we have a lot of ways
14 that the businesses are implementing waste reduction.

15 I move that this -- I propose that this item be
16 considered for approval, and if you have any questions
17 I'll be happy to answer them.

18 CHAIRPERSON JONES: Thank you, Piper.

19 Members, any questions?

20 Ms. Peace.

21 COMMITTEE MEMBER PEACE: I'm just curious. You
22 mention Safeway and they're going to try to do some
23 outreach on their bags. I notice that there's several
24 supermarkets on the list. Can you give me some other
25 examples of what supermarkets are doing to reduce waste?

1 MS. MIGUELGORRY: Yes. In particular,
2 Albertson's is one that I have spoken with recently, in
3 addition to reviewing their application quite explicitly.
4 But one thing that they do have is that every single site
5 within the state of California they have grocery bag
6 collections. And, I'm sorry, plastic bag collections.

7 COMMITTEE MEMBER PEACE: I was really curious
8 about that, because I live in San Diego and there's an
9 Albertson's down the street, and I can never find one
10 there.

11 MS. MIGUELGORRY: They informed me, and I have
12 spoken with the resource manager in the corporate
13 headquarters, that at every single site, either in their
14 lobby, or in, I guess, in their lobby or at their entrance
15 they do have some type of a collection facility within the
16 store.

17 Now, if for some reason you don't see one, we can
18 certainly inquire further. But that's the understanding
19 that I have.

20 COMMITTEE MEMBER PEACE: I'll definitely ask next
21 time I'm in there.

22 MS. MIGUELGORRY: Sorry?

23 COMMITTEE MEMBER PEACE: I'll definitely ask next
24 time I'm there, because I've never seen one.

25 MS. MIGUELGORRY: You'll probably note by the

1 item we have 760 Albertson's that are proposing for the
2 award. And they're very proud. They have many different,
3 what I would call leadership qualities in regards to waste
4 reduction that they tout. They have quite an annual
5 report. I'll be happy to provide that to you if you'd
6 like to see it.

7 COMMITTEE MEMBER PEACE: What other kinds of
8 things do they do -- supermarkets in general do? What do
9 they do?

10 MS. MIGUELGORRY: Some of the composting
11 operations, where they take their food waste from the
12 grocery area and they actually work with the outreach in
13 the community, whether it's a farming facility or
14 something of that nature. And so the food that's dated or
15 has problems with it coming in even, is transferred out of
16 the grocery store.

17 I have a quick little story I'll tell you that
18 was real interesting. Again this comes from Albertson's,
19 because I spoke with the resource manager on a couple of
20 occasions. I was interested in his application.

21 He said that one day he had a meeting of some of
22 the executives and he served them fruit and cheese.
23 Little did they know at the end of their meeting that the
24 fruit had been extracted from what would otherwise have
25 been tossed, and it was perfectly good fruit. And -- it

1 was a test.

2 So he found that, you know, there were ways to
3 actually reduce his cost and still, you know, we've got
4 the reuse thing going on here. So there are many ways. I
5 think that just -- there are a lot more attentive to what
6 they can do, even within their employee base, as well.
7 Education, working with non-profits outside of the
8 organization themselves, a number of things.

9 COMMITTEE MEMBER PEACE: We have a big zoo in
10 San Diego. Do any of these grocery stores or anything
11 have --

12 MS. MIGUELGORRY: A collaboration with them?

13 COMMITTEE MEMBER PEACE: Yeah, with the zoo to
14 give some of the stuff they throw away to the animals.

15 MS. MIGUELGORRY: I would not be surprised,
16 although I would have to look into that. I know the
17 San Diego Zoo has applied for an award also on a number of
18 occasions.

19 COMMITTEE MEMBER PEACE: Because I know, yeah,
20 they do have their recycling containers and everything
21 around the zoo, which is very nice to see.

22 MS. MIGUELGORRY: You're thinking of the food --
23 sending excess food to the animals?

24 COMMITTEE MEMBER PEACE: Yeah. I just wonder if
25 you have all this fruit and vegetables and different

1 things --

2 MS. MIGUELGORRY: I probably read that, but I
3 couldn't tell you precisely which one --

4 DEPUTY DIRECTOR WOHL: There's several different
5 programs where they will, some of the food that's still
6 edible and in fairly good shape, they might send it to
7 homes for people, you know, like a Loaves and Fishes kind
8 of thing. And then they also use food waste for animal
9 feed. So a lot of that happens.

10 One of the big things they do is, you know, the
11 cardboard, corrugated cardboard. I don't know if you have
12 seen in some of the grocery stores now, where they used to
13 stack fruit in those cardboard boxes, now they use plastic
14 reusable things or they're biodegradable. And then they
15 recycle the cardboard and they reuse those sheets.

16 And there's a small grocery store in Grass Valley
17 that we went up and paid a visit to. They literally will
18 buy things in bulk, like lotion and things like that, and
19 people bring their own bottle and refill. And so they get
20 a deal for being part of this co-op for this grocery
21 store, and then they refill bottles, so there's no waste
22 in the packaging. They're very conscious about the
23 packaging in those kinds of stores.

24 We'll have to send you on a tour of one of these,
25 because it's amazing what they're working on.

1 MS. MIGUELGORRY: Another thing that comes to
2 mind, to piggyback what Patty just said, is I think one of
3 Mr. Jones' favorites, and that is -- was it the Whole
4 Foods Market we went to -- the Whole Foods Market where
5 they are trying to implement a program, per his
6 suggestion, with fire logs, so the waxed corrugated
7 cardboard would, in fact, be reused and manufactured into
8 the fire logs. So, again, collaboration with another
9 business.

10 CHAIRPERSON JONES: We have a business in Chico
11 that makes fire logs, works with one of the grocery
12 chains. Whole Foods is looking for somebody to take their
13 wax. And so we put them together, and maybe Whole Foods
14 will start selling those wax fire logs, because they
15 actually burn cleaner than some of the other options.

16 So all right. Any other questions?

17 Ms. Peace, are you making this motion?

18 COMMITTEE MEMBER PEACE: I sure will. I would
19 like to move resolution number 2003-450, consideration of
20 the 2003 waste reduction awards program WRAP winners.

21 COMMITTEE MEMBER WASHINGTON: Second.

22 CHAIRPERSON JONES: We got a motion by Ms. Peace,
23 a second by Mr. Washington.

24 Jennine, would you call the roll?

25 SECRETARY BAKULICH: Peace?

1 COMMITTEE MEMBER PEACE: Aye.

2 SECRETARY BAKULICH: Washington?

3 COMMITTEE MEMBER WASHINGTON: Aye.

4 SECRETARY BAKULICH: Jones?

5 CHAIRPERSON JONES: Aye. Consent members.

6 MS. MIGUELGORRY: Thank you.

7 CHAIRPERSON JONES: Thank you.

8 Next item.

9 DEPUTY DIRECTOR WOHL: Consideration of
10 additional awards from a joint offering of the reuse
11 assistant grants for fiscal years 2002/2003 and 2003/2004.
12 And Sarah Weimer will present.

13 MS. WEIMER: Good afternoon, Chair Jones and
14 Committee members. Sarah Weimer with the Reuse Assistance
15 Grants Program of the Waste Prevention Market Development
16 Division.

17 This agenda item for approval of additional
18 awards from the fiscal years 02/03 and 03/04, joint
19 offering of reuse assistance grants using fiscal year
20 03/04 funds.

21 Through the 2000/2001 budget process, the Board
22 secured \$250,000 annual expenditure authority from the
23 Integrated Waste Management account through BCP number 5
24 for administering future offerings of reuse assistance
25 grants.

1 At the November 19 and 20th, 2002, meeting the
2 Board adopted this scoring criteria and the process for
3 evaluating the fiscal years 02/03 and 03/04 joint offering
4 grants applications.

5 The notice of funding availability was mailed on
6 November 26th, 2002, to over 5,000 interested parties, as
7 well as made available on our website.

8 Staff received a total of 36 applications by the
9 final filing date. Eighteen proposals met the minimum
10 scoring requirement of 75 points. At the April 23rd,
11 2003, meeting the Board approved the awards of six
12 applicants, five fully and one partially, based on their
13 passing score and ranking totaling \$250,000 from fiscal
14 year 02/03 funds.

15 All recipients have entered into grant agreements
16 with the Board and have started with their grant projects.
17 The previously awarded applicants are as follows: The
18 City of Oakland, City of Santa Barbara, City of Santa
19 Clarita, Nevada County, San Luis Obispo County, West
20 Contra Costa Integrated Waste Management Authority.

21 Using fiscal year 03/04 funds, staff recommends
22 funding seven additional applicants based on their passing
23 score and ranking totally \$250,000. To utilize the entire
24 current fiscal year allocation, staff recommends fully
25 funding six applicants and partially funding one

1 applicant. One of the applicants, Nevada County, was
2 partially funded from fiscal year 02/03 funds and will now
3 be fully funded with addition of fiscal year 02/03 funds.

4 Please refer to attachment 4 for a listing of the
5 recommended grant applicants for fiscal year 03/04. I am
6 happy to identify and describe at this time for the record
7 the proposed recipients, or simply field any questions
8 that you might have.

9 CHAIRPERSON JONES: Thank you.

10 Any questions, members?

11 COMMITTEE MEMBER PEACE: Nope. I would like to
12 move Resolution Number 2003-451, consideration of
13 additional awards for the joint offering of the reuse
14 assistance grants for fiscal year 2002/2003 and 2003/2004.

15 COMMITTEE MEMBER WASHINGTON: Second.

16 CHAIRPERSON JONES: We've got a motion by
17 Ms. Peace, a second by Mr. Washington. Substitute the
18 previous roll, members, on fiscal consensus.

19 DEPUTY DIRECTOR WOHL: Agenda Item 3 or Committee
20 Item D, consideration of the application to renew the
21 Riverside County recycling market development zone
22 designation.

23 And Raffy Kouyoumdjian will present.

24 MR. KOUYOUMDJIAN: Thank you. Good afternoon,
25 Chairman Jones and Committee members. I'm here to present

1 Item D, consideration of the application to renew the
2 Riverside County recycling market development zone
3 designation.

4 In August 1993 the Board approved the original
5 designation of the Riverside County RMDZ. The Riverside
6 County RMDZ tenured designation term expired on August 28,
7 2003. The zone administrator submitted a complete
8 application prior to its expiration to renew the
9 designation. Because of the timing of the City Council
10 meetings, passing the resolution required to support the
11 zone renewal, and the Board's internal review process, we
12 were unable to bring this item forward prior to September
13 2003.

14 In order for the zone and its businesses to
15 resume receiving RMDZ services, including low interest
16 loans, this Board is being asked to consider this
17 redesignation request. It is critical that the Board take
18 timely action on this request, since the current zone
19 designation expired in August.

20 Based on past annual reports, the Riverside
21 County RMDZ provided direct technical business assistance
22 to five local manufacturers, two of which have been RMDZ
23 loan recipients. Two loan recipient businesses,
24 California Biomass and Log World, deferred approximately
25 43,000 tons per year from the local landfills and have

1 added almost 30 jobs to the local economy.

2 Riverside County's EA reports that the remaining
3 RMDZ businesses divert approximately 54,750 tons per year
4 and have created eleven jobs in the region. These
5 recycling-based manufacturers are involved in projects
6 ranging from composting to tire crumb rubber production.

7 Renewal of the Riverside County RMDZ meets the
8 Board's 2001 strategic plan goal to objective two, which
9 states the use of materials diverted from landfills and
10 the use of preferable practice. The redesignation of the
11 Riverside County RMDZ will create additional markets for
12 recyclables for manufacturing and other activities that
13 will foster sustainability and local use of the diverted
14 materials.

15 Zone renewal requires evidences of compliance
16 with CEQA. The negative declaration for the redesignation
17 of the existing RMDZ was adopted by Riverside County Board
18 of Supervisors on August 26th, 2003, and circulated to the
19 State Clearinghouse. No comments were received.

20 Staff recommends that the Board approve Option
21 Number 1, adopt Resolution Number 2003-452.

22 This concludes my presentation. Available for
23 questions.

24 CHAIRPERSON JONES: Any questions, members?

25 Mr. Washington.

1 COMMITTEE MEMBER WASHINGTON: Mr. Chair, I'd like
2 to -- does Ms. Peace have any questions.

3 I'd like to move adoption of Resolution 2003-452,
4 consideration of application for renewal for the Riverside
5 County recycling market development zone designation.

6 COMMITTEE MEMBER PEACE: Second.

7 CHAIRPERSON JONES: We have a motion by
8 Mr. Washington, a second by Ms. Peace.

9 Members substitute the previous roll. On
10 consent. Thank you.

11 All right. Next item.

12 DEPUTY DIRECTOR WOHL: Agenda Item 4, committee
13 Item E, consideration of the feasibility of a loan
14 guaranteed leveraging strategy and a contract concept to
15 implement such a strategy using funds from the recycling
16 market development zone RMDZ revolving loan program.

17 And Jim La Tanner will present.

18 MR. LA TANNER: We have a short Power Point here
19 to cover the item.

20 COMMITTEE MEMBER WASHINGTON: When you say short,
21 how short?

22 MR. LA TANNER: Six slides, five. Five slides,
23 four minutes.

24 CHAIRPERSON JONES: Go ahead.

25 MR. LA TANNER: Gives more time for questions.

1 Okay?

2 (Thereupon an overhead presentation was
3 presented as follows.)

4 MR. LA TANNER: To give a little background of
5 this item, back in September 2000 staff first identified a
6 long-term projection on the sub account and the RMDZ
7 direct loan program. We came to the Board and the Board
8 reviewed and directed staff to form a work group to
9 identify alternative sources of funding that will leverage
10 the loan program funds. The idea was to find some
11 entities that may put funds into the sub account.

12 In September 2001, the Board awarded a contract
13 for leveraging study to the Milken Institute. In August
14 2002, the Board heard the results of that Milken study.
15 The following month in September 2002, the Board directed
16 the staff to pursue a loan sale and evaluate the legality
17 and feasibility of the loan leveraging strategy to the
18 guarantee program. Those were the two most feasible
19 leveraging options of four that were in that study.

20 --o0o--

21 MR. LA TANNER: This chart is a little bit hard
22 to read up on there, but it's also in the attachment to
23 the agenda item. The idea is the first row going across
24 shows our existing process of how we make a loan.
25 Essentially the 40 zone administrators do the marketing

1 for the program and work with businesses within the 40
2 zones and bring most of the applications into the Board.

3 Loan staff then works with the applicants to get
4 a complete application, and those that do provide a
5 complete ap that are able to determine the marketability
6 of the product diversion and so forth and meet
7 underwriting guidelines are forwarded on to a loan
8 committee. If the loan committee approves the
9 repayability and collateral, then it goes to this
10 committee here, followed by the budget committee and
11 eventually the Board.

12 This is roughly a four-month process for those
13 applicants that do provide, for the most part, complete
14 applications.

15 What we're proposing today is to leverage our
16 funds with the state loan guarantee program, which is the
17 second row there, and work a little bit differently. The
18 ZA would still provide marketing and outreach to the local
19 businesses. Somebody interested in a loan would contact
20 us here at the Board. We would do the underwriting of it
21 and the project analysis and confirm they're in a zone,
22 but instead of going to loan committee and the Board
23 committees, we would forward that over to one of 14
24 financial development corps that actually issue a state
25 loan guarantee.

1 They would then in turn contact their banks that
2 participate in the program to find a lender, and if the
3 bank approves the loan, then the FDC would issue a loan
4 guarantee, which is secured by Board funds and 25
5 percent of the actual loan amount.

6 If we get a pretty much complete application,
7 that's probably going to take four weeks compared to four
8 months. It leverages the funds.

9 --o0o--

10 MR. LA TANNER: To compare the two in a different
11 manner, our current direct program does not leverage for
12 every dollar we lend out is lent out. Beginning November
13 12th, we will be charging the prime rate, which is
14 currently 4 percent. That will be fixed at the beginning
15 of each loan and our terms are still 10 to 15 years. The
16 loan guarantee -- if the recycling business gets the loans
17 from the bank, there's a difference. Leverage factor is
18 one the four, for every one dollar we put in they can lend
19 four.

20 Their loans, instead of prime rate fixed are
21 prime rate floating on a daily basis, plus an average of
22 two to four percent, depending on the quality of the
23 credit. The terms of the banks are shorter, three to
24 seven years, depending on the use of property as
25 collateral. They can accept residential property as

1 collateral, which we currently prohibit, and banks also
2 have the ability to do construction loans, which we
3 cannot.

4 --o0o--

5 MR. LA TANNER: The short version of the
6 sub-account, where the money is coming from to do this.
7 In that first column, fiscal year 2003/4, our budget right
8 now, we projected to make 10 million indirect RMDZ loans.
9 At the August Board meeting the Board approved 5,000,657
10 out of RMDZ. We're proposing to use 1,850,000 of that 10
11 to fund this, plus we also have 500,000 available in our
12 C&P line item.

13 If we did fund it this year, that still would
14 leave 2,492,000 available for direct loans. Going out the
15 next two years to the sunset date next year, we have
16 available approximately 4,568,000 for loans, but I would
17 propose if this is successful, to come back to the Board
18 and allocate an additional 2,250,000. It would only leave
19 2 million 3 available for direct loans next fiscal year,
20 and in the sunset year of 2 million 7 available if the
21 first banks make 20 million loans. We do this a third
22 year, it would only leave 544.

23 --o0o--

24 MR. LA TANNER: To understand exactly how the
25 Board funds would be used, we would contribute 2,250,000

1 to a -- what's called a small business expansion fund.
2 It's like a trust account or savings account. Right now,
3 we're proposing we can keep that with the sub account at
4 the Controller's Office, but that's still being reviewed
5 as to whether we can do that or how that would happen.

6 But with the leverage factor of one to four, we
7 can guarantee 9 million in loans. The state loan
8 guarantees are up to 90 percent of the loan amount, so the
9 banks would have an unsecured guarantee. Contributing a
10 million would make 10 million in loans available with the
11 Board's money of only 2 million 250. That continues out
12 three years.

13 We'll work it where we put the first 2 million
14 250 in, the banks would have to make 10 million in loans
15 before we would consider making the subsequent
16 contribution the following year.

17 --o0o--

18 MR. LA TANNER: What staff recommends is that the
19 Board approve, or this Committee, Resolution 2003-454 that
20 directs staff to do two things: One, to implement this we
21 would have to do regulations; the second is to approve a
22 contract concept in the amount of a 2,350,000, which would
23 authorize the development of a scope of work for
24 contracting with one or more of the 14 guarantees. The
25 scope of work would come back to the Board.

1 The amount is 100,000 higher because the FTC
2 would like 100,000 up front to implement a marketing plan
3 of their own to market this program to all the banks and
4 their other clients that currently participate in the
5 program.

6 That concludes my presentation.

7 CHAIRPERSON JONES: Questions, members.

8 We have a speaker. Do you have questions? And
9 then I just have a couple of questions before we get to
10 Mr. Lautze.

11 Who's going to run the reg package? Mr. Block.

12 ACTING STAFF COUNSEL BLEDSOE: The legal office
13 would assist with RMDZ staff. At this point. I'm the
14 prime candidate --

15 CHAIRPERSON JONES: About how long are we looking
16 at, because every time we -- do we know we need to have
17 regulations to do this or is this in the best world you
18 would like to have regulations?

19 ACTING STAFF COUNSEL BLEDSOE: I think it would
20 be -- it's definitely the better course and it's not a
21 very close call. I think regulations are necessary in
22 this situation. We can, working with staff, and might
23 want to have some informal workshops with the zone
24 administrators, but I don't see why we couldn't have a
25 draft of the regs done in two months.

1 MR. LA TANNER: We actually have a draft, but it
2 hasn't been reviewed by anybody but loan staff right now.
3 We're estimating approximately four months for regs.

4 The main reason for regs, it does allow us to
5 leverage -- the statute actually says we can leverage but
6 statutes fall short of saying we can leverage directly
7 with the state loan guarantee program and this would spell
8 that out.

9 CHAIRPERSON JONES: All right. Because, I mean,
10 four months for regs just puts us that much further back
11 to doing this. Because -- now we'll have two and a half
12 million or 2.4, 2.3, or something like that. So I'm
13 assuming that if we agree to this, then -- we've already
14 lent almost 6 million. We just looking at the first in
15 the door or what on that remaining two?

16 DEPUTY DIRECTOR WOHL: We have several
17 applications in-house for the money. And there is a
18 potential, let's say at the October loan committee that
19 the number of applicants that pass to the loan committee
20 exceed that dollar amount that we have available. And
21 then our recommendation, if you wish to accept, would be
22 to say that the first that came in the door would be the
23 first one to fund. And then if there was any partial
24 money left, we would ask that company if they had
25 additional funding and they wanted to accept a partial

1 loan from us and then get the rest from the bank, or if
2 their project would be scaled such that partial funding
3 would work rather than -- you know, another option would
4 be to bring two loans to the table here and you decide.
5 But that's --

6 CHAIRPERSON JONES: That's not going to work. I
7 mean, you've got to bring -- I don't want to choose
8 between two people --

9 COMMITTEE MEMBER WASHINGTON: Is there a cap on
10 the amount of money for these loans?

11 DEPUTY DIRECTOR WOHL: Two million.

12 COMMITTEE MEMBER WASHINGTON: So one person --

13 DEPUTY DIRECTOR WOHL: That's right. It's very
14 likely. Now another option you have is to do something
15 less than the 2.25, you know. You can say that you want
16 to put in a million now and we'll fund the second million
17 next year. So you have some flexibility there if you want
18 to leave a little more dollars for direct loans now.

19 So the Board obviously has that -- it's a
20 one-to-four ratio. If you put in a million you probably
21 can get 4 million out. Plus that 100,000, I think we want
22 to do the direct marketing. We think that would be
23 advantageous.

24 CHAIRPERSON JONES: There was an article in the
25 Los Angeles Times basically ripping California, but it did

1 talk about how this business had prospered because of the
2 Integrated Waste Management Board's RMDZ loan program.
3 And that while the issues that we hear about every day in
4 the paper about Workman's Comp, and other issues were
5 highlighted in the story, he also said that it was the
6 ability of him to get these dollars, but also the work
7 that our staff did with them bringing professionals in,
8 that they actually changed an entire business profile for
9 that company to include a recovered source of material to
10 start putting out a product that they're selling to Cal
11 Trans and safety companies all up and down the state.

12 I don't want to lose that. The Board members
13 don't want to lose that. I know our staff doesn't want to
14 lose that advantage. That's one of the high -- I mean,
15 that's one of the good things about being in California is
16 the ability to access these funds. You know, when we
17 started this guarantee program it was one of two pieces of
18 a program.

19 We had talked about selling our loan portfolio,
20 making those dollars available for a whole series of
21 things. We obviously have to think that part of the
22 strategy out, because there is the ability of the
23 legislature and others to sweep our money. And it
24 wouldn't make a whole lot of sense to sell our portfolio,
25 which at least generates \$5 million a year in payment

1 funds, if -- to sell that portfolio and then find that we
2 are -- have funds swept and this program dies. Because I
3 think it's positive to keep putting money into this
4 sector.

5 So we need to probably do the guarantee program
6 now, I would think. And then figure out how we are going
7 to put together a package that can get the blessing of
8 both the Governor's office and the legislature to give us
9 the time to figure out how to get those dollars allocated.

10 We've had discussions with the appropriate
11 parties on the administrative side. We still have some
12 more to do on the other piece. And there's no guarantees
13 at this point, so we have to be a little careful.

14 So it does almost lend itself to what are we
15 going to do with this 2,318,000 or \$2,492,000, because
16 that does, you know, regs always seem to take longer than
17 the projected time, around here anyway. Not for any fault
18 of yours, normally, for -- because of me, or my colleagues
19 that end up fighting about stuff.

20 So maybe we need to think about holding a
21 reserve, but I'll wait until the other members weigh in on
22 that.

23 Any questions? So we'll get to Mr. Lautze.

24 Mr. Lautze.

25 MR. LAUTZE: Good afternoon, Mr. Jones and

1 members. I'm Steve Lautze, President of the California
2 Association of RMDZs. We represent the zone
3 administrators in the 40 zones around the state that are
4 on the ground working with companies to bring deals to
5 Sacramento to utilize these funds.

6 I just want to confirm that you all got my
7 letter. It was a late letter. And it was explained why
8 it was so late in the letter. Some of that is, I think,
9 the Board's committee process is pretty tight on
10 deadlines, and that's one issue.

11 There are other issues about conferring between
12 the program staff, who we have worked with extensively,
13 and our association on this issue. And so I apologize for
14 the lateness.

15 Let's see. I'm ready to discuss the questions
16 that I've raised in my letter and hear responses from
17 staff.

18 I should mention that I did hear from
19 Jim La Tanner yesterday and he presented me, as I walked
20 into the room today, with some preliminary written answers
21 to those questions. So I want to note that. But I
22 haven't had time to integrate all that information.

23 Basically, if these questions can't really be
24 resolved, and I looked at some of the answers they did
25 answer. I don't have 13 questions anymore. I have less

1 than that after reading Jim's answers. So I want to
2 mention that.

3 But we feel that this is kind of a watershed
4 moment for our program, and I agree with a lot of what you
5 said, Mr. Jones, about the attractiveness of the loan
6 guarantee in the absence of a bulk loan sale or recap,
7 other recapitalization of the direct loan fund.

8 But looked at a little differently, the way we
9 read this item it is basically committing the Board, the
10 program, to the loan guarantee program, to effectively
11 replacing the direct loan program.

12 There is not a lot of discussion -- really
13 there's no discussion of the bigger picture, which we
14 think is critical, which is how can we sustain the RMDZ
15 program. And that's not to say that you yourself haven't
16 exerted a lot of energy on that, because you were critical
17 in creating the possibility of the bulk loan sale.

18 But, you know, we are also mindful that the regs,
19 even if this passes out, will take four or more months to
20 develop and things can change, different things can
21 happen. One of the things per your immediately preceding
22 discussion that we would like to suggest is that the
23 amount committed to this not be committed to today or next
24 Tuesday. That if you commit to do regs on a loan
25 guarantee, because you don't know how long it's going take

1 this fiscal year, I would ask whether the staff can wait
2 and keep the funds allocated for this year open for direct
3 loan funds so we can keep things going.

4 We heard from staff there are lots of pending
5 applications. We'd like to know how many -- how much
6 money is represented by the most viable, apparently
7 viable, applications, for instance.

8 But to come back to this bigger issue. My letter
9 has a big finish. It says we need to look at the big
10 picture. We, as an association, are looking now actively
11 to the legislature. We have had meetings or discussions
12 with legislators about the problem that's facing the loan
13 program. That loan -- that zones are being asked to renew
14 for ten years and there isn't a ten-year charted future
15 for this program.

16 So, you know, hunkering down -- this item,
17 though, I guess what we're saying is all these questions
18 that we've listed, we did not have a chance to discuss in
19 detail with the staff before its coming to you for
20 adoption. And sending out for regs. So we'd really like
21 you to take a careful look at some of the questions we've
22 raised, and I'm certainly open to any discussion from the
23 members or from the staff on the answers to those
24 questions right now.

25 CHAIRPERSON JONES: Any questions from members?

1 I want -- go ahead, Ms. Peace.

2 COMMITTEE MEMBER PEACE: I was concerned about
3 some of the questions that I had, some of the same
4 questions that Steve had in his letter. I would like to
5 hear some of the responses from staff on those questions.

6 MR. LA TANNER: And the answers are?

7 COMMITTEE MEMBER PEACE: We'll start with number
8 three, the proposed commitment to the loan guarantee
9 program. Is it reversible -- sufficient customers don't
10 materialize?

11 MR. LA TANNER: Yes. Initially we would set
12 aside this 2,250,000 and the money would be encumbered
13 only as the bank makes a loan, and 25 percent of that loan
14 amount is put into a loan loss reserve. I would try to
15 structure it the same way I have the with the treasurer's
16 Cal CAP program, in that we would only have to give a
17 90-day notice to pull the money back if it doesn't work.

18 CHAIRPERSON JONES: Ms. Peace, I want you to go
19 through your questions. But in fairness -- because I
20 don't know if you were here when we dealt with this. But
21 I want the deal with one issue that Mr. Lautze brought up
22 that talks about timing.

23 None of the issues that we're dealing with today
24 are new. We dealt with this and came up with a policy of
25 the Board, and I'm not sure, I think it was May -- April

1 May, June -- when we said take three, look at three of the
2 options. Do the loan sale, bulk loan sale. Do an
3 individual loan sale, meaning as you make a loan we will
4 sell it immediately to the bank. A loan per loan daily.
5 And number three, the loan guarantee program to get those,
6 some of those unbankable people in.

7 Now you were involved in those discussions. You
8 may not have agreed with them, but you were in them. So I
9 don't want --

10 MR. LAUTZE: I agree with that.

11 CHAIRPERSON JONES: I just wanted to not have my
12 colleague ask a series of questions that -- because I
13 don't know which ones she's going to ask that you're
14 bringing up that may have been answered extensively in the
15 past.

16 MR. LAUTZE: Mr. Jones, if I could respond,
17 just -- with all due respect. I think the history that
18 Mr. La Tanner showed said do the loan sale and look at the
19 feasibility of the loan guarantee. We are on the brink of
20 having deferred the loan sale and doing the loan
21 guarantee, and that's one of the issues we're raising.
22 Not that we weren't advised that the loan guarantee might
23 be an option. That is not what I'm saying.

24 CHAIRPERSON JONES: Because it was an option from
25 day one.

1 MR. LAUTZE: Yes. I agree.

2 CHAIRPERSON JONES: Go ahead.

3 COMMITTEE MEMBER PEACE: Another question he
4 raised -- during the next two years is it, hypothetically
5 both programs can be in existence, the direct loan program
6 and a loan guarantee program.

7 MR. LA TANNER: Right.

8 COMMITTEE MEMBER PEACE: His question is who
9 would determine which borrowers are eligible for what
10 program? Would we be loaning out of our direct program
11 still with the lower interest rate and then out of the
12 loan guarantee program with the higher interest rate?

13 MR. LA TANNER: We would do it as a first come,
14 first serve basis. The first application in would use
15 what money's available in the sub account. And once
16 that's encumbered for direct loans, then future
17 applications that come in we would direct toward the loan
18 guarantee program.

19 COMMITTEE MEMBER PEACE: How many of our recent
20 loan recipients would have qualified under the SBLG
21 program? Would they all have qualified for their loans
22 under that program?

23 MR. LA TANNER: In the Milken study we identified
24 and looked at the history of the loan program, and roughly
25 38 percent of the loans would have qualified for the state

1 loan guarantee program.

2 COMMITTEE MEMBER PEACE: So the ones we just --

3 MR. LA TANNER: Of the recent ones, like in
4 August there was approximately six approved. I would say
5 four would have. But the question is the recycling
6 business, the big question they have is the interest rate
7 and the term. Are they willing to accept a shorter term
8 and a higher rate?

9 My thought is if the business goes directly to
10 the bank and just avoids the Board, they're going to get a
11 normal three- to five- to seven-year loan at prime plus
12 two to four. There is more targeted and so is the direct
13 program for those businesses that can't just walk into a
14 bank. They come to us. Now if we're out of money and
15 they go to the bank, the bank, the way the loan guarantee
16 programs works is with this credit enhancement of a loan
17 guarantee up to 90 percent the bank may be more willing to
18 make it.

19 COMMITTEE MEMBER PEACE: I understand that. But
20 how many of the loans that we just gave -- there's
21 restrictions in the loan guarantee program, like in how
22 much you can use for working capital and that sort of
23 thing. Is that going to really --

24 MR. LA TANNER: I'm not aware of the restriction
25 on the loan guarantee program on the amount of working

1 capital. What the banks do when they look at a loan
2 guarantee application is they look at the useful life of
3 the collateral and that determines the maximum length of
4 the loan, which is generally five to seven years as
5 opposed to our direct program, which is ten. That's their
6 main concern.

7 Their second concern is repayability, which we
8 look at also. And they lend like we do. The lending
9 guidelines are pretty much the same. They don't have a
10 restriction on working capital, though.

11 COMMITTEE MEMBER PEACE: Okay. Thank you.

12 CHAIRPERSON JONES: Thank you, Ms. Peace.

13 Mr. Washington, any questions? Okay.

14 MR. LAUTZE: Again, we are not challenging the
15 theoretical concept that a loan guarantee program could
16 allow the Board to make \$10 million worth of loans only
17 investing 2.25. What we were trying to highlight is that
18 the character, the feel and look of the loans that are
19 available to the businesses, and that the ZA's in the
20 field are therefore offering to the business changes
21 radically with this decision.

22 Because of the different profile of what the
23 FDSs, the deals the FDSs will do, and critically because
24 the money's running out in the loan fund. So the loan
25 guarantee is -- it's not that subtle. It's pretty much

1 there that the loan guarantee will become and displace the
2 direct loan program. And all we were saying is before you
3 do that or authorize that you are doing more than just
4 authorizing a loan guarantee program, if we don't grapple
5 with and address the long-term funding for this program.
6 And the end to my letter suggests we're going look to the
7 legislature because we know that the Board is limited.

8 Mr. Jones has stated again on the record that
9 there's a danger of a bulk loan sale getting swept. We
10 would like the help out. We are not as limited in
11 approaching the Legislature. We may be much more naive,
12 but we are not as limited in trying to go to bat for our
13 program and say we have a capability of doing a bulk loan
14 sale, recapitalizing funds for our program at the Waste
15 Board, and we just need to ensure that that money will not
16 be taken, because this is a unique program that is popular
17 with business. It's popular with environmentalists. It's
18 popular with local government. It's popular with the
19 waste haulers. So we think it's a good case and we'd like
20 to take that part of it to the Legislature.

21 I would ask of staff can you tell us how many of
22 apparently viable deals are in the pipeline right now for
23 this fiscal year?

24 MR. LA TANNER: Right now in house we have five
25 applications totaling 5.6 million. Of those five,

1 however, we only have one, roughly 700,000 that may go
2 forward at the November meeting.

3 COMMITTEE MEMBER WASHINGTON: Why do you say,
4 "may go forward"?

5 MR. LA TANNER: There's a lot of analysis that
6 staff does to determine the applicant's ability to repay
7 and collateralize the loan. The applicants generally
8 apply sometimes before they get all their permits or out
9 sited. They want some idea if they match what they want
10 is eligible under the program. We work with them for a
11 long time to avoid declines.

12 I know there's approximately six prospects that
13 ZAs have been talking to us with that have not submitted
14 applications.

15 MR. LAUTZE: The other question that's not on my
16 list, is there's no discussion of the experience with Cal
17 Cap that the RMDZ had had that the RMDZ program has had
18 this Cal Cap program, which is another guarantee program.
19 Can you discuss how much, how often that's been used and
20 why it hasn't been used more by borrowers, this other loan
21 guarantee program?

22 MR. LA TANNER: The Board has an inter-agency
23 agreement with the treasurer's office with the California
24 Capital Access Program. What that program does is provide
25 loan default insurance to banks on loans. We've actually

1 in the three plus years of that inter-agency agreement
2 only had two recycling businesses take advantage of that
3 program.

4 It's primarily targeted for applicants that don't
5 qualify for the state loan guarantee program. It's
6 primarily companies that want account receivable
7 factoring. It's primarily 18 to 20 percent interest card
8 rates, and Wells Fargo's the only major bank that plays a
9 role in that program right now. We currently have, we
10 keep allocated 500,000, which can be pulled back at any
11 time with interest. Our balance in the account is now
12 525,000, but we're planning on keeping that in place and
13 using that as another way to leverage our funds.

14 So if they don't qualify for a direct loan or
15 we're out they can go to the state loan guarantee program.
16 If they don't qualify for that, they can go to the Cal Cap
17 program and eventually be able to see the loan going
18 forward.

19 CHAIRPERSON JONES: Cal Cap was just another way
20 to do those unbankable potential entrepreneurs. So, all
21 right.

22 Any other questions?

23 Thanks.

24 COMMITTEE MEMBER PEACE: Just during the time in
25 the four months it takes to develop these regulations,

1 what happens during that time, there's no loans made?

2 DEPUTY DIRECTOR WOHL: Well, we have that \$2.4
3 million that's remaining --

4 COMMITTEE MEMBER PEACE: So you will be using
5 that?

6 DEPUTY DIRECTOR WOHL: You have two options. One
7 is you commit this 2.25, or 2.3 million now, and say we
8 want to hold that in advance and that leaves the 2.4
9 million left for direct loans or you say, "You know what,
10 we want to wait until the regs are in place before we
11 reserve this money." And then it may or may not be there
12 at that time. And you may have to wait until the next
13 fiscal year. So, you know, I think we're open to either.
14 Or you may do some portion of that.

15 You can say, "Let's put half aside now." But any
16 of those options are available.

17 I'd also like to just comment to the long-term
18 sustainability, you know, I think that's what Steve's
19 looking for. Unfortunately, this program isn't
20 sustainable with these kind of interest rates. That's
21 really the bottom line. So you can sell loans, but that
22 actually hurts the long-term sustainability of this
23 program.

24 So yeah, it's a great, you know, kind of
25 temporary solution, but if you're really looking for

1 sustainability, which I think we all are, it's to try to
2 figure out how can we best use the money we have now and
3 eventually what will happen is over time the direct loan
4 portion will increase. Because it kind of levels off. It
5 goes low and then it starts coming back up as these notes
6 are repaid. So we will eventually have more and more
7 direct fund money coming back into the account.

8 CHAIRPERSON JONES: All right.

9 Members, any other questions?

10 I think that the staff's recommendation is to do
11 the regs, which needs to be done quickly, and to
12 participate in the small business loan guarantee program.
13 And, I mean, that would be -- but I don't want to approve
14 2.3 million for the loans right now.

15 DEPUTY DIRECTOR WOHL: There is also a portion of
16 the dollars, you know, in the presentation, 500,000 of the
17 dollars was coming out of consulting and personal
18 services. So I guess you have an option, maybe, to take
19 that portion and set it aside and maybe like 500,000 out
20 of the direct loan portion to get you to a million and not
21 hurt the direct loan portion as significantly, if you want
22 to do something like that.

23 I'm just trying to look for a solution for you.

24 CHAIRPERSON JONES: The 500,000 you identified
25 out of C&P, is that dollars that are unallocated?

1 DEPUTY DIRECTOR WOHL: Correct. At this point.

2 CHAIRPERSON JONES: Has the Board made a policy
3 of what we're going to do with those dollars?

4 DEPUTY DIRECTOR WOHL: No.

5 CHAIRPERSON JONES: You're asking this Committee
6 to do it?

7 DEPUTY DIRECTOR WOHL: There is a contract
8 concept in this item.

9 CHAIRPERSON JONES: I don't have any problem with
10 using those unallocated dollars, but I sure want that to
11 be a full discussion of the Board, as opposed to an action
12 of this Committee that might slip by.

13 I think I'd be prepared to go along with the
14 resolution, but revise it to include that -- do regs, do
15 the loan guarantee program, and then limit the loan
16 availability for the rest of this year to the \$1 million
17 for now until we -- well, limit it to a million dollars
18 out of our fund.

19 DEPUTY DIRECTOR WOHL: Set aside, so to speak.

20 CHAIRPERSON JONES: Set aside for any loans
21 coming in, so we have a million three five set aside for
22 whatever we need for next steps for our loan guarantee.

23 Now, what about our -- that would be my motion.

24 DEPUTY DIRECTOR WOHL: It's 1,350,000, is that
25 what you're saying?

1 CHAIRPERSON JONES: Yeah. That's fine.

2 1,350,000.

3 DEPUTY DIRECTOR WOHL: So a million less than we
4 proposed, so to speak.

5 MR. LA TANNER: So the FDC, instead of having the
6 10 million marketing program, would be less than --

7 CHAIRPERSON JONES: No.

8 DEPUTY DIRECTOR WOHL: He's just saying that's
9 all we would set aside until the regs are through.

10 CHAIRPERSON JONES: You've got your money for the
11 small business guarantee.

12 MR. LA TANNER: Right.

13 CHAIRPERSON JONES: You're asking about how much
14 money would be left in the fund for direct loans?

15 MR. LA TANNER: Right.

16 CHAIRPERSON JONES: And I am saying limit that to
17 a million three or whatever, as opposed to the whole
18 balance.

19 MR. LA TANNER: Instead of the 2 million 4?

20 CHAIRPERSON JONES: Instead of 2 million 4, a
21 million 3.

22 COMMITTEE MEMBER WASHINGTON: Set aside for --

23 CHAIRPERSON JONES: Just so that it's there, that
24 people don't have an expectation there's \$2 1/2 million in
25 loan money available. It gives us the opportunity, then,

1 to figure out where we are going to go next and still
2 leaves a million in case we don't get anything done and
3 have to do a portion of the loan guarantee program next
4 year, to keep the program alive until we get funding from
5 our things. And that's my motion.

6 DEPUTY DIRECTOR WOHL: Can I just --

7 CHAIRPERSON JONES: Go ahead.

8 DEPUTY DIRECTOR WOHL: I need to comment, because
9 the 2.49 is available if all of the money is set aside.
10 That's what you would have for direct loans. So I think
11 what you're actually proposing is to have more to that --
12 I just want to make sure, because this numbers could be
13 confusing. So in the item we asked for 2.35.

14 CHAIRPERSON JONES: You asked --

15 DEPUTY DIRECTOR WOHL: And how --

16 CHAIRPERSON JONES: -- then you showed. Yeah.
17 You asked for 2,250,000 for the loan guarantee -- out of
18 456.

19 DEPUTY DIRECTOR WOHL: Part of it is 1 million
20 850 from direct loans and 500 from C&P. And that still
21 leaves you 2.4 million for direct loans this year.

22 CHAIRPERSON JONES: No, I understand that. What
23 I'm saying is to limit that to a million. That the
24 available for new loans would be capped at a million or a
25 million five. To leave it balanced until we can figure

1 out how we do this sale.

2 If we -- what I'm worried about, because our
3 balance right now, we funded -- we had 10 million when we
4 started this year. We funded 5 million. You want to take
5 a 1 million 850 plus the --

6 DEPUTY DIRECTOR WOHL: 500.

7 CHAIRPERSON JONES: Plus the 500. And I don't
8 think the 500 is yours to take. So I'm saying fund it at
9 2.25.

10 DEPUTY DIRECTOR WOHL: 2.35.

11 CHAIRPERSON JONES: 2.35. That would change --
12 the available new loans would be \$1,892,000.

13 DEPUTY DIRECTOR WOHL: But you'd like to do it at
14 1.3.

15 CHAIRPERSON JONES: Leave it at a million, half a
16 million. I don't want this action tie the hands of
17 the Board members on the C&P line.

18 DEPUTY DIRECTOR WOHL: Okay. So we would not
19 bring any loans that weren't less than 1.3 million back to
20 the Board.

21 CHAIRPERSON JONES: At least for now.

22 DEPUTY DIRECTOR WOHL: Until we make a decision.

23 CHAIRPERSON JONES: At least for now.

24 DEPUTY DIRECTOR WOHL: Got it.

25 CHAIRPERSON JONES: Otherwise, we're going to run

1 out of money before we can pull the trigger.

2 DEPUTY DIRECTOR WOHL: Meanwhile, we'll move
3 forward with the regs, if that's the vote.

4 CHAIRPERSON JONES: And you get to move forward
5 with the loan guarantee. And we ought to be moving
6 forward on the dealing with the individual loan sale.

7 MR. LA TANNER: We have two documents.

8 CHAIRPERSON JONES: The individual loan sale.

9 MR. LA TANNER: We're working on that.

10 CHAIRPERSON JONES: Okay.

11 COMMITTEE MEMBER WASHINGTON: Mr. Chair, I
12 would -- listening to the discussion of this, I would
13 suggest that we move to this to the full Board. With the
14 level of details that it involved, I think this should be
15 a full Board item to talk about the whole discussion,
16 rather than vote it out of this Committee in any form.
17 Just my thoughts as I'm sitting here thinking. I just
18 think this is something the full Board probably ought to
19 tackle, so all the Board members -- I apologize, the mikes
20 are real -- they're not working well at this point.

21 COMMITTEE MEMBER PEACE: If we only leave a
22 million in the fund, you're proposing to leave 2.4 million
23 in the fund for direct loans. Mr. Jones is proposing we
24 only leave one million --

25 DEPUTY DIRECTOR WOHL: .3, right 1.3.

1 COMMITTEE MEMBER PEACE: What would be the
2 downfall, we don't have as much money to lend, and
3 obviously.

4 DEPUTY DIRECTOR WOHL: For example, if we have a
5 couple loans coming forward they may total 2 million and
6 we wouldn't be able to fund them or we would have to delay
7 funding until we have more information.

8 COMMITTEE MEMBER PEACE: If we did fund more
9 loans at the 2.4 million, we would still have 2.25 million
10 to put into the leveraging program.

11 DEPUTY DIRECTOR WOHL: Except for his concern is
12 that part of that is out of the \$500,000 out of consulting
13 and personal services line item, which the Board may have
14 a different option to use that somewhere else. He wants
15 to at least allow for that discussion to take place, so
16 that if they -- somebody wants to use that 500 for some
17 other purpose, you still have that option. Which you
18 would not if you committed to it now. So I think that
19 seems --

20 COMMITTEE MEMBER WASHINGTON: And I think he
21 makes a good point. That's why I again I think this ought
22 to go to full Board, so all the Board members can have an
23 opportunity to weigh in on this discussion.

24 This is a significant movement we're trying the
25 make in a committee meeting without my other colleagues

1 being present, and I wouldn't feel comfortable moving
2 something forward without their input on this particular
3 issue. So, at this time I'm not going to vote on this. I
4 think it should go before our full Board.

5 CHAIRPERSON JONES: That's fine. We'll send it
6 to the full Board. We've got a whole lot of items going
7 to the full Board anyway. All right. Thanks.

8 Next item.

9 DEPUTY DIRECTOR WOHL: Agenda Item 5, or
10 Committee Item F, consideration of plastic trash bag
11 manufacturers' request for exemption for inability to
12 obtain sufficient quality or quantity of recycled plastic
13 post-consumer material to demonstrate compliance with the
14 plastic trash bag law for the 2002 reporting period for
15 the following companies: Pactiv Corporation,
16 Poly-America, LP, The Clorox Company, and Trans Western
17 Polymers.

18 And Michael Leon will present.

19 MR. ORR: Actually, I'd like to make a brief
20 intro before the item. Bill Orr with the Recycling
21 Technologies Branch.

22 Just want to provide a brief preface to the item
23 to give a little bit of background for Board members that
24 may not have been following the trash bag law for the last
25 couple of years.

1 The Board paid special attention to the area of
2 plastic trash bags, really, since September of 2001, when
3 the Board adopted a plastic trash bag survey report to the
4 legislature that included a couple of recommendations
5 that -- to the legislature to increase the post-consumer
6 content and eliminate the exemption we're going to be
7 talking about today.

8 The staff then held a workshop where significant
9 input was received from stakeholders about the dynamic
10 marketplace affecting the availability of plastic for the
11 use in trash bags. That was held in January of 2002 at
12 the beginning of the reporting period that we're now
13 talking about today. And staff cautioned the stakeholders
14 at that point that the workshop that was being held was
15 being held for the purposes of considering recommendations
16 to change the statute. But absent any changes, the Board
17 would continue to enforce the law as currently stated.

18 In May of 2002, the Board deferred a decision on
19 making amendments to this trash bag survey report until
20 the completion of the plastics white paper, which occurred
21 in June of this year. At that time, the Board accepted
22 the plastic white paper, and in that included
23 recommendations to amend the trash bag survey report to
24 describe program enhancements that were implemented this
25 year and were part of last month's agenda item, and also

1 to pursue the development of a better alternative to the
2 trash bag law.

3 Today's item is a continuation of last month's
4 item, and specifically the Board is being asked to take a
5 look at whether or not the companies that are being
6 proposed today took reasonable steps, pursuant to the
7 regulations, to find sufficient quality and quantity of
8 post-consumer resin for trash bags. And specifically,
9 that these efforts were during the compliance year 2002.

10 Much of the documentation that's been provided
11 for companies' efforts was done in conjunction with these
12 other efforts during either the 2001 trash bag survey
13 report or in conjunction with the 2001 certification.
14 There have also been recent efforts documented by
15 companies that would apply to the 2003 certification that
16 will be sent out at the end of this year or subsequent
17 years.

18 So, with that I'm going to turn the presentation
19 over to Mike Leao, the supervisor of the Plastics
20 Recycling Technology Section, to present the finding of
21 staff's effort over the last month on due diligence in
22 regard to these exemptions.

23 (Thereupon an overhead presentation was
24 presented as follows.)

25 MR. LEAO: Thank you, Bill. Good afternoon,

1 Mr. Chairman and Committee members. I have a brief Power
2 Point presentation -- maybe not so brief, but I'll try to
3 make it brief.

4 --o0o--

5 MR. LEAON: I'd like to start with discussing
6 what's the basis for an exemption. Plastic trash bag
7 manufactures must demonstrate that there was an
8 insufficient supply of actual post-consumer material or
9 APCM that met Board quality standards. In addition, they
10 must also demonstrate that they made reasonable efforts to
11 find and work with potential suppliers to obtain the APCM.
12 And that post-consumer material is needed in order for
13 them to achieve 10 percent recycled content in their
14 regulated trash bag lines.

15 --o0o--

16 MR. LEAON: For the 2002 reporting period, four
17 manufacturers requested an exemption. These were Clorox,
18 Trans Western Polymers, Poly-America, and Pactiv
19 Corporation.

20 At its August Board meeting, the Board directed
21 staff to do additional work with these manufacturers and
22 attempt to verify that indeed they had taken reasonable
23 actions to obtain APCM.

24 --o0o--

25 MR. LEAON: What the regulations require in

1 regard to reasonable efforts is that a trash bag
2 manufacturer identify each potential supplier that it
3 contacted, cite any mutually-agreed-upon tests and
4 specifications that were used in order to test that
5 material, provide results of any independent testing or a
6 certification from the post-consumer material supplier
7 verifying that that material did not meet their quality
8 standards. And in addition, provide a list of reasons for
9 rejecting each sample or shipment.

10 In addition, they also have to document the
11 efforts that they made to work with those suppliers to
12 resolve quality issues. And whether or not the Committee
13 determines to approve or disapprove recommendations really
14 hinges on that last bullet, and that was the focus of our
15 effort in working with the manufacturers.

16 --o0o--

17 MR. LEAON: The process we went through in
18 attempting to verify reasonable efforts, we supplied
19 manufacturers with a list of questions. Asked for a full
20 response to those questions. We then met with the
21 manufacturers, reviewed their response to those questions
22 and any documentation they had supplied. We did this
23 through conference calls, in-person meetings, e-mail
24 communications, and individual phone calls. And again,
25 where our focus really lay was on attempting to verify

1 their efforts to work with suppliers on resolving quality
2 issues.

3 --o0o--

4 MR. LEAON: There are several commonalities that
5 each of the manufacturers had cited as for their reason
6 to -- for their inability to obtain post-consumer
7 material. And these were -- there were fewer suppliers
8 available or in business in 2002. The Board supplier list
9 was out of date, as Patty mentioned in her report. We are
10 working on getting that list updated.

11 There was insufficient collection of the material
12 that they needed to manufacturer trash bags, specifically,
13 linear low density polyethylene, principally stretch wrap.
14 The available supplies of this material were going to
15 other markets. They cited plastic lumber and export
16 markets, and also that suppliers lacked capacity to meet
17 their orders. They couldn't get, not only quality
18 material, but sufficient quantity of material.

19 And finally, another major barrier they cited was
20 their customer specifications, that the retailers are
21 setting quality standards for color and strength that is
22 making it very difficult for them to incorporate
23 post-consumer material into their trash bags.

24 --o0o--

25 MR. LEAON: Staff wanted to hear from suppliers

1 to get their side of the story in this effort. And also
2 talked to compliant manufacturers to find out how they
3 managed to achieve compliance. For the suppliers who
4 wanted to assure quality and quantity, and for the
5 manufacturers, we want to know how did you achieve your 10
6 percent recycled content requirement.

7 --o0o--

8 MR. LEAON: The factors limiting suppliers
9 reported by the post-consumer resin suppliers was that
10 their product would have to come under the price of virgin
11 resin, so there was a price barrier. They also cited one
12 of the major --

13 CHAIRPERSON JONES: Who said it had to be cheaper
14 than --

15 MR. LEAON: That's what the suppliers were
16 saying, yes.

17 CHAIRPERSON JONES: That's what their customers
18 were demanding?

19 MR. LEAON: Yes.

20 CHAIRPERSON JONES: Okay.

21 MR. LEAON: And, in addition, that manufacturers
22 were not making a real effort to follow up with them when
23 their samples failed testing. Also, there was no request
24 for manufacturers regarding blending of resins or
25 injecting additives that would make their post-consumer

1 material or their pellets better able to achieve or meet
2 quality standards.

3 And finally, in regard to the quantity issues,
4 suppliers did report that indeed they had sufficient
5 capacity to meet demand if quality issues could be
6 resolved.

7 --o0o--

8 MR. LEAON: Regarding how other trash bag
9 manufacturers did achieve compliance, we talked to several
10 trash bag manufacturers that met the 10 percent goal. And
11 one of the common things that they stated was that it was
12 an important goal to them and they really wanted to
13 achieve that -- meet the recycle goal.

14 In so doing, they made conscientious efforts to
15 identify suppliers and source material from several
16 different suppliers. Others took advantage of the one
17 point two credit for purchasing post-consumer material
18 from California. They also demonstrated that they had an
19 ongoing active relationship with their suppliers and
20 stayed in regular communication and proactively dealt with
21 quality problems.

22 And finally, some of the manufacturers reported
23 that they were located in areas where competition for
24 material wasn't as stiff as it was in other areas.

25 --o0o--

1 MR. LEAON: At this point, I'd like to give you a
2 brief run through on staff's finding for each of the
3 companies.

4 Regarding Poly-America for their 2002
5 certification. Poly-America used 842 tons of
6 post-consumer material, achieved a 4.1 recycle content in
7 their trash bags. They purchased bailed or loose material
8 and processed that material at their own facility and then
9 used those pellets in their trash bag line. And they
10 supplied receipts documenting those purchases to staff.

11 --o0o--

12 MR. LEAON: Regarding Pactiv Corporation for
13 2002. Pactiv used 357 tons of post-consumer material,
14 achieving a 7.5 percent recycled content in their
15 regulated trash bags. Again, similar to Poly-America,
16 they went out and purchased bailed or loose material,
17 processed it into pellets at their own facility and used
18 those pellets their trash bag line.

19 Pactiv also supplied receipts documenting those
20 purchases.

21 --o0o--

22 MR. LEAON: Regarding Clorox. For 2002, Clorox
23 did not use any recycled content material in their
24 regulated trash bags. They did document that they had
25 tested five samples in 2002 and none of these samples met

1 their quality standards. However, Clorox was not able to
2 provide much in the way of documentation showing that they
3 made a reasonable effort to follow up with their suppliers
4 to resolve those quality issues.

5 --o0o--

6 MR. LEAON: Regarding Trans Western Polymers.
7 For 2002, Trans Western used 32.5 tons of material.
8 Achieved only 1 percent recycled content level in their
9 trash bags.

10 However, they did not purchase new material in
11 2002. Trans Western used material that they purchased in
12 2001. They had invested in new equipment in the hopes
13 that new equipment would allow them to use the material
14 they had on hand. However, they did not go out and look
15 for new supplies or follow up with their 2001 supplier
16 regarding quality problems in a proactive way to try to
17 get quality material in that they could use.

18 And while -- I should say that they did do some
19 followup with their supplier on their quality problem.
20 But we don't feel it went to what was required under the
21 regulations regarding reasonable efforts.

22 --o0o--

23 MR. LEAON: Based on that, staff recommends that
24 the Board select Option 1 for Poly-America and Pactiv
25 Corporation and approve their request for an exemption for

1 the 2002 reporting period. And also, for Clorox and Trans
2 Western, select Option 2 and disapprove their request for
3 an exemption for 2002.

4 That concludes my presentation, and I'd be happy
5 to answer any questions.

6 CHAIRPERSON JONES: We have three speakers. Any
7 questions members?

8 In your discussions during this one-month period,
9 you got a lot of anecdotal and verifiable information from
10 suppliers. What was -- besides the fact that their
11 customers say they want recovered material to be cheaper
12 than resin, which I can understand. It's just -- resin
13 always seems to drop in cost as soon as we make an impact
14 to the marketplace.

15 What other things did you hear, because I
16 certainly heard things.

17 MR. LEAON: From the suppliers?

18 CHAIRPERSON JONES: Yeah.

19 MR. LEAON: Well, all the suppliers that did
20 report that -- the big thing that I heard from suppliers,
21 they have the capacity to meet the demand. And that there
22 wasn't the give-and-take necessary between the suppliers
23 and the manufacturers for them to overcome the quality,
24 quality problems. And that the suppliers indicated they
25 could go out and source material, but they needed some

1 commitment from the manufacturers in order to do that.
2 And they didn't feel that that was forthcoming. And that
3 as a result, they couldn't take the steps that they felt
4 were -- they would need to do that in regard to investing
5 in equipment, securing financing and going out and
6 sourcing the material.

7 CHAIRPERSON JONES: Okay. I received -- I don't
8 know if the other members got them or not. I received two
9 letters. One from Delta Plastics, who does supply an
10 awful lot of the, these folks and others with material.
11 They had verified in some cases that they are able to do
12 some of the LLPDE, but they also do the heavier blends for
13 the -- that includes some of the heavier --

14 MR. LEAON: Higher density?

15 CHAIRPERSON JONES: -- HDPEs and higher melts,
16 but they're always looking forward to working on it.

17 And a letter from Talco who does about 50 million
18 pounds annually, saying that he, or that that company
19 would definitely, you know, welcome the opportunity to
20 invest in increased production, you know, for high density
21 PCR.

22 Some of these companies can't use high density.
23 They can only use the low.

24 MR. LEAON: Yes. That's correct. And for the
25 four companies that requested the exemption, they were

1 pretty adamant that they could not use high density in
2 their product line.

3 CHAIRPERSON JONES: So I think we have to -- I
4 think we have to look seriously at some point reconvening
5 this group to come up with a standard that they can
6 manufacture successfully and still get a recovered product
7 from the waste stream.

8 They all seem to want to get scrap, and I've
9 talked to three of the four of them. And, you know,
10 that's great they want to get industrial scrap. I can
11 understand that, because that stays consistent with what
12 they're building.

13 But, as I told them, each of them, you know, we
14 have an obligation to, number one, deal with the mandate
15 of the law and to help market development. And if we've
16 got a tight enough spec so that they have a product if the
17 suppliers can provide it, then there would be a full
18 expectation that it can be used.

19 But I think we're a long way away from there. I
20 think the range is a little bit too wide. But I find it
21 interesting that we had four that were all exemptions and
22 it was going just a no-brainer until we said, "Let's see
23 what's happened," because I'm not even convinced that all
24 four -- I'm not even convinced, although I'm going to go
25 with staff that two options, you know, I mean, I heard

1 testimony that kind of surprised me and that's why I don't
2 know why one of them is not in, that didn't make it. But
3 that's okay. All right.

4 We've got three speakers. Ned R. Pendleton from
5 Pactiv.

6 MR. PENDLETON: Thank you, Mr. Chairman, members
7 of the Committee, staff. I appreciate this opportunity to
8 address you. I appreciate the staff's work and the
9 Committee's understanding of the problems that the
10 consumer plastic bag manufacturers are faced with in
11 trying to meet the Integrated Waste Management Board's
12 attempts to meet the regulations.

13 I do feel that it is necessary for us as
14 manufacturers to let you know that we're continuing to see
15 the declining availability of the material throughout
16 2003.

17 While Pactiv was able to meet 7.5 percent in
18 2002, as I acknowledged to the staff early on, for 2003,
19 we'll be quite fortunate to even approach 5 percent for a
20 target. We're trying as hard as we can, but the good
21 material is going somewhere else. I have indicated to the
22 staff and the Committee that I think I know what industry
23 a good deal of it's going to, but we are having difficulty
24 getting the types of materials that we were able to put in
25 this product for the last ten years.

1 We were very happy to use larger component
2 percentages in the past, up to 30, above 30 percent in the
3 past, and did so regularly. We're unable to find that
4 volume currently. That addresses my first main point,
5 which is availability of material.

6 My second point is the quality of the materials
7 that are available. One of the things that we noticed in
8 the last two years that as the material availability has
9 gone away the quality has declined. We are currently
10 getting material that we wouldn't have seen five years
11 ago. We're getting materials contaminated with other
12 types of polymers that suppliers were careful to sort in
13 the past. They don't appear quite as conscientious to
14 need to sort the material as they have in the past.

15 We're running into quality problems in our
16 facilities with things that we've been told were
17 polyethylene that we're finding are not polyethylene. And
18 we need to run linear low polyethylene. We can't run high
19 density. We can't run PVC. We can't run cellophane.
20 There are a lot of other plastics out there that don't
21 make good plastic bags.

22 The other concern that we have -- and to address
23 that concern let me tell the staff that weren't involved
24 in discussions with Committee members, one of the products
25 that we developed was the renew product, which is a 65

1 percent recycled plastic bag. As we saw our good quality
2 suppliers being unable to supply us, we had to concentrate
3 more and more on a few suppliers.

4 In order to get any of this material in a bag we
5 decided what we could do is try to concentrate as much of
6 the good RPP, PCM as we could in a couple of single
7 products rather than spreading it across the entire
8 product line that we had done in the past.

9 To achieve that took a lot of work. And
10 fortunately, the product has met with some success,
11 although limited on the consumer product shelf. We're not
12 sure that's the solution. We're not going to get to 10
13 percent providing the renew product line to the citizens
14 of California. But it's an attempt for us to try to
15 maintain our input, and we will continue to try to
16 maintain those inputs in the review product line.

17 My third and final point is that we're not just
18 dealing with California law now. We're dealing with
19 international law. Our competitive situation has changed
20 dramatically in the last five years. We have seen in the
21 last three years more and more international product
22 showing up on the shelf. This is product that does not
23 contain PCM. It does not -- it does not have very good
24 characteristics, but the citizens are buying them.

25 My concern is that we're trying to get the PCM

1 that we can into the product and our international
2 competitors are not putting the PCM in. I don't know how
3 you react to the international market. I don't know how
4 you regulate the international market. But there is
5 product coming into the state of California that does not
6 meet your laws.

7 Pactiv currently does not import plastic trash
8 bags from other countries. We currently make all of our
9 plastic trash bags in the United States. I'm not sure how
10 much longer that will be true. I just wanted to let the
11 Committee, the staff know that we have a significant
12 concern on the international front that American jobs are
13 at stake.

14 Thank you very much.

15 CHAIRPERSON JONES: Thank you. Any questions?

16 All right. Pete Price.

17 MR. PRICE: Mr. Chairman, Pete Price with
18 Poly-America. I'll try to be brief.

19 I first want to thank the staff for the
20 recommendation to approve a recommendation exemption for
21 Poly-America. We had a very good meeting with staff a
22 couple of weeks ago, and had a good long discussion of a
23 lot of the issues surrounding the difficulties in meeting
24 the requirements of this law.

25 What Poly-America did, as soon as they returned

1 from that meeting, we decided to do another survey as best
2 we could in the, I think, two weeks from that meeting, of
3 the supplier list that you provided and others that we
4 know of, and that's what I've given three copies of to
5 Mike Leason, I guess you're getting now. And this is not
6 definitive, because it was a quick turnaround in time for
7 this meeting.

8 But I just want to point out you can see the
9 results on the first page, many of them -- well, in the
10 short amount of time we had we did not make a connection,
11 or else they did not have supply. There were a number of
12 issues. But we did attach the names of five or six
13 companies that at least showed some minimal promise had
14 LLDPE in some amount, but even of those I think you will
15 note that several have them that say they don't have the
16 capacity to expand already have a buyer.

17 These are the kinds of things we regularly run
18 into, even with the suppliers where we, you know, get past
19 the first question with them.

20 Now, based on the conversation with staff -- I
21 mean, we get the clear message from the Board that we need
22 to be more vigilant in following up with these companies
23 and in pursuing with them, whether they can make changes
24 or we can make changes, so that they can supply to us.
25 And we're going to do that as best we can, but this is

1 just the early indication of what we've gotten since our
2 meeting with staff.

3 I think the Board should take note of the fact
4 that even the two companies that received or recommended
5 to receive the exemption and had got the closest of 10
6 percent got none of their plastic from the suppliers on
7 this list or any of the suppliers. It's because Pactiv
8 and Poly-America collect their own scrap. That's how we
9 got where we got. So for other companies who don't
10 collect their own scrap and aren't their own processors,
11 I'm frankly not surprised, given our experience and the
12 way we have to find our plastic, I'm not surprised their
13 levels are very low.

14 I also note that these companies are among the
15 largest manufacturers. We're going to do more to outreach
16 to these suppliers. But something doesn't match up here,
17 members, because you would think these suppliers would be
18 knocking down our door to get a contract with companies of
19 our size.

20 We would be a big, large volume, steady customer.
21 We haven't heard from these companies. We'll outreach to
22 them, but it strikes us as odd that we don't hear from
23 them, when we would be a great customer for them. And all
24 of that leads to my final point, which is there have been
25 plenty of workshops on plastic in the last two years.

1 But it seems to me it makes sense for the Board
2 to consider one or more workshops now with the
3 manufacturers and the suppliers. That's where you're
4 getting a different story from both sides and we ought to
5 get everyone in one room and try to sort it out there.

6 Thank you very much.

7 CHAIRPERSON JONES: Any questions, Members?

8 Mr. Price, I have just a couple.

9 I met with your client and, you know, you guys
10 collect your own scrap, but I think they made it pretty
11 clear they don't buy PCR.

12 MR. PRICE: We collect our scrap, our business
13 model --

14 CHAIRPERSON JONES: Right.

15 MR. PRICE: -- predates this law, and that's what
16 we do. When we've gone out and made the effort to find
17 pellets from the suppliers. We can't find it, either.
18 We've tried to do both.

19 CHAIRPERSON JONES: Because if I'm -- I mean, I
20 had three different conversations, but it seemed pretty
21 clear in all three that nobody was interested in buying
22 PCR. They were interested in buying scrap, and taking
23 care of the scrap themselves and put it into a state where
24 they could use it, because think didn't want to pay the
25 higher cost, or they couldn't deal with the contamination.

1 And clearly, you know, it is problematic and
2 you're right. I think we will convene. I don't think it
3 will be so much a workshop as it will be -- it'll be a
4 workshop, but it will be a workshop to figure out how to
5 tighten up these specifications so you guys can use this
6 stuff.

7 But every one of the suppliers that our staff
8 contacted and the people that talked to me said if we got
9 a commitment we would add capacity.

10 MR. PRICE: I think they ought to get in the room
11 with us, because we would love to work with those folks
12 if, in fact, that will come together.

13 CHAIRPERSON JONES: But if there is a reluctance
14 to ever buy PCR and only to buy industrial scrap, that's
15 another part of a discussion that there's a pretty big
16 hole. And just for the sake of the record, I think it's
17 important to understand getting the scrap and washing it
18 and cleaning it and then pelletizing it and running it
19 through the process eliminates that processor. It's the
20 processor that takes that same scrap, cleans it,
21 pelletizes it and then looks for a customer.

22 So I always worry, because the English language
23 sometimes can be misleading and people think that you're
24 talking about the same thing. And I don't think we are.
25 I think we're talking about you're making a commitment

1 that your client is going to go out and find scrap, but
2 I'm not hearing a commitment.

3 MR. PRICE: No. Let me correct --

4 CHAIRPERSON JONES: Because I was told it was
5 that -- I mean --

6 MR. PRICE: I need to correct that. I would hate
7 for anyone to think that Poly-America is only looking for
8 scrap and not for pellets through these suppliers. We
9 spent too much time establishing a written record of our
10 contacts with these suppliers and all of the dead ends we
11 run into to suggest, I think, to fairly suggest that
12 Poly-America is not interested in buying pellets if we can
13 find them in an amount in a quality that works for us.

14 We do collect scrap. And I would hope no one
15 would want to suggest that Poly-America should somehow be
16 punished or stigmatized because we do collect scrap and we
17 are own our processor.

18 CHAIRPERSON JONES: That's not what I'm saying.

19 MR. PRICE: We will also do anything we can to
20 buy pellets that work for us in an adequate amount and
21 quality. We're going to ratchet up our efforts, based on
22 the meeting we had with staff and with you, Mr. Jones.

23 We'll do our best.

24 CHAIRPERSON JONES: Okay.

25 MR. PRICE: Thank you.

1 CHAIRPERSON JONES: All right.

2 Laurie Nelson.

3 MS. NELSON: Mr. Chair and members, Laurie
4 Nelson. I'm here today on behalf of The Clorox Company,
5 which is headquartered in Oakland, California.

6 I just want this Board to know that this company
7 has been at the forefront of environmental issues. A
8 couple of examples of plant safety where we have double
9 containment systems, pesticides, bait-in gels so there's
10 no human exposure. VOC reductions in our products that go
11 beyond what the ARB requires.

12 My point in making that is that Clorox is a
13 community leader. Okay. You tell us the rules and we
14 will comply. In fact, if possible, we will go further
15 than what is required in statute.

16 We take this potential judgment of noncompliance
17 very seriously. I want to briefly review some of our
18 history and participation on this issue.

19 We've been active and involved on every level.
20 We've met with your staff repeatedly for years expressing
21 our concerns, our frustrations, our difficulties in
22 acquiring PCR. We've had extensive and ongoing written
23 communication with this Board over the last year. We've
24 participated in almost every interested parties meeting,
25 the white paper, discussions with legislative staff, and I

1 think the most telling, the workshop that was held in
2 2002.

3 And that's important, because at that time
4 manufacturers, suppliers, and the Board staff were all in
5 the same room at the same time and there was an agreement
6 that there was a major supply issue, and that what
7 material is being collected is being put somewhere else to
8 a higher, better use -- requires less cleaning, less
9 quality, etc.

10 Now the statute requires that a manufacturer must
11 make a reasonable effort to identify available supplies of
12 material. And let me tell what reasonable effort looks
13 like to The Clorox Company.

14 To do so, we have to go back to 2001 when that
15 list was first supplied by your staff. And that is this
16 one here which has lots and lots of names on it. We
17 contacted every single person on this list. And these
18 contacts went on through September 2001. We had no
19 success in locating any suppliers.

20 Next we took the trash bag survey and there were
21 24 new companies that were identified. We contacted every
22 single one of those companies and they were all industrial
23 or HDPE or competitors. There was a grand total of one
24 lead that we had already identified by our own efforts.

25 We've also searched the internet, Plastic News,

1 gone to our competitors. And all the vendors we had used
2 have gone out of business.

3 Now as an aside, as Mr. Price said, our company
4 is somewhat at a disadvantage. We can't source out any of
5 this material. We aren't collectors. But bear in mind
6 that for us, the price for PCR was cheaper. In addition
7 to complying with the law, we had every incentive, the
8 millions of dollars we would have had, had we been able to
9 use PRC in our products.

10 After our contacts a number of companies sent
11 samples. Even when that supply failed we ordered a
12 thousand pounds to see if we blow trash bag film. We were
13 unable to. So hopefully the Board can clearly see we have
14 made reasonable efforts.

15 We do have a couple of frustrations. One is that
16 it seems to me that in June of this year is when the staff
17 required additional documentation. It's a little
18 problematic in 2003 to specify what you expected from us
19 in 2002. As far as this additional documentation, I don't
20 know of any other company that met this requirement,
21 because no one was told it was a problem previously.

22 We're informed that other manufacturers are able
23 to comply, but we're not told how they're able to comply.
24 Are they HPDE bag manufacturers? How are they getting the
25 material? Most frustrating of all we hear that suppliers

1 say they have the capacity, meet demand, but we can't get
2 the names of those suppliers. Give us the name of those
3 suppliers, we'll contact them. We can't find them and
4 they're not on this list.

5 So, in summary, we're here today to request that
6 you do not accept staff's recommendation to single out
7 this company. We believe we've met the spirit of the law
8 and we've spent considerable time and effort to comply,
9 and that involves just four areas.

10 We have four previous years of self exemption.
11 There's been no question or complaint from the staff or
12 the Board, and there were numerous opportunities for both
13 if there was an issue. There was no question or complaint
14 arriving from a 1999 audit of The Clorox Company. There
15 was no mention of this additional documentation when we
16 were all together at the workshop in 2002.

17 We were all in the same room. If there was a
18 desire to have more extensive followup, why was it not
19 discussed when everyone in the room? I just want to make
20 sure that standard is being enforced across all
21 manufacturers before you today.

22 We're in the same fix as other manufacturers. We
23 think we have a clear evidence of a reasonable effort, and
24 I've been unable to locate in the statute or the
25 regulations why some of us are in Option 1, some of us are

1 in Option 2.

2 And as far as contacting the suppliers, I'm glad
3 you mentioned Delta Plastics, because we do have a
4 response letter both from Delta Plastics and from Syncot
5 Plastics indicating we do -- we have been working with
6 them. They have been unable to provide us with material.
7 As you mentioned, Delta is trying to do additional LLDPE
8 materials in the future, but we do have those two letters
9 available for your perusal.

10 CHAIRPERSON JONES: Questions?

11 Ms. Peace.

12 COMMITTEE MEMBER PEACE: Did Clorox use any PCR
13 this year?

14 MS. NELSON: No. We were unable to locate any
15 PCR.

16 COMMITTEE MEMBER PEACE: Find any --

17 MS. NELSON: Right.

18 CHAIRPERSON JONES: You know, the previous years,
19 I don't if you used it or didn't use it. But it came
20 pretty clear. And I know you were in the room when they
21 discussed the white paper -- if the white paper, as I saw
22 it was basically let's abandon all efforts on mandating
23 plastic recycling, which I didn't agree with, and have
24 never agreed with, and won't ever agree with.

25 So it was at that point I decided to crank up my

1 interest in this issue a little bit. The self
2 exemptions -- it's clear when I talked to suppliers and
3 say, "Hey, we sent Gaylord out, we never got a response
4 back. We sent Gaylord out. We tried phone calls. Nobody
5 ever returned a phone call."

6 You know, there's a disconnect somewhere in this
7 system. There's always going to be a disconnect between
8 the factory and the lobbyist, the factory and the plant
9 manager, just because, you know, I come from that -- from
10 a world where there are disconnects. And, you know, when
11 this many suppliers said we can't put in capacity unless
12 we have some kind of a sense that we have an opportunity
13 to sell the product, that's a pretty reasonable request
14 and I'm not saying that you pre-do it, but most people
15 won't build capacity if there's no opportunity to sell
16 product. I mean, you don't build it and say they'll come.

17 I think what a lot of suppliers were frustrated
18 about, at least some of the ones I know that talked to
19 staff, there weren't even return phone calls. But all of
20 them or a lot of them said, "I don't know what you guys
21 are doing in Sacramento, but guess what, the phone's
22 ringing off the hook and people want to know if there's
23 product available."

24 So I think we definitely are within our rights to
25 make sure that this law is enforced.

1 MS. NELSON: Absolutely, Mr. Jones. And that
2 wasn't my intent. My intent was to come before you and
3 just remind of Clorox's previous stewardship on all of
4 these other environmental issues where we have met and
5 exceeded whatever the requirements are. And if there are
6 suppliers out there, we've asked the staff for their names
7 and they have not supplied them to us. We would welcome
8 the opportunity. That's why we were able just today to
9 get from Delta and SynCot Plastics the yes, indeed, they
10 have been working with us over the last two years.

11 COMMITTEE MEMBER WASHINGTON: Do you have a
12 reason why you haven't provided her that list?

13 MR. LEAON: Yes. Let me respond to that briefly.

14 The other manufacturers, when we talked to them,
15 they have asked that we not divulge who their suppliers
16 are. So we were honoring that request on the part of
17 trash bag manufacturers. However, we know that --

18 COMMITTEE MEMBER WASHINGTON: Is there some
19 secret to that or something? What's the deal?

20 MR. LEAON: Well, I think it's competition for
21 material, would be my assumption on that. But we know who
22 the universe of suppliers are. I believe Clorox is
23 working with some of the main ones and needs to continue
24 their dialogue that's reasonably begun with those
25 suppliers.

1 And of the 22 manufacturers that were found to be
2 compliant, the majority of them were purchasing pellets,
3 PCR pellets.

4 MS. NELSON: Just a reminder for the Board,
5 again, the two largest companies are The Clorox Company
6 and Poly-America. So our supply demands are quite high.
7 And we do have folks we are working with. If they can't
8 divulge to us specially which buy from which suppliers, if
9 you can just update the list, because the list we have is
10 outdated and has pretty much been worthless as far as who
11 we can contact. We really feel like we've made the good
12 faith efforts on our part.

13 MR. LEAON: We've heard that request by industry
14 and we are working diligently on getting a revised list
15 put together and that list should be available by next
16 week.

17 CHAIRPERSON JONES: Okay. Who was the gentleman
18 that used to run all the recycling programs in Clorox?

19 MS. NELSON: Terry Bedell?

20 CHAIRPERSON JONES: The guy that led the
21 nation --

22 MS. NELSON: Terry Bedell?

23 CHAIRPERSON JONES: He retired.

24 MR. McCAY: October 17th he retired.

25 CHAIRPERSON JONES: Heard him speak a lot of

1 times. All right.

2 Questions?

3 COMMITTEE MEMBER PEACE: Of the PCR suppliers you
4 contacted, that said they have quite a bit of capacity
5 available, have any of them tried to contact company and
6 say, "Hey, we have capacity, give us your business." It
7 seems like the companies can't find these PCR suppliers.

8 MS. NELSON: I think Mr. Jones has characterized
9 that situation correctly. The suppliers that we've talked
10 to had samples tested have said that they have not been
11 able to get a response.

12 COMMITTEE MEMBER PEACE: We have tried to contact
13 and get a response.

14 MS. NELSON: And the suppliers which currently
15 are in that market have expressed an interest in getting
16 into that market.

17 COMMITTEE MEMBER PEACE: Thank you.

18 MS. NELSON: And I appreciate they would want to
19 get into the market. The problem we're facing is
20 retroactive in 2002, what was the market like then? We
21 didn't have a list of suppliers that were producing the
22 kind of material that we needed to comply with this law.

23 CHAIRPERSON JONES: And in 2002 you did test some
24 material and found that it didn't meet your quality
25 standards. What happened after you tested it?

1 MS. NELSON: As I think I mentioned, first we had
2 the smaller test where it didn't meet the quality
3 standards and then we got a thousand pounds to try to blow
4 film and that didn't work.

5 I have Jim McCay from The Clorox Company with me,
6 as well.

7 MR. McCAY: In 2001 we requested some samples.
8 They failed the melt index, yet we went ahead in 2002 and
9 asked for 1,000 pounds to see if we could blow film. At
10 that point, it had failed as well --

11 CHAIRPERSON JONES: What is the melt index that
12 you need for your process?

13 MR. McCAY: I'm not the technical person, but I
14 believe it's the same melt index as specified in the
15 standard.

16 CHAIRPERSON JONES: So it's a range of 4 to 2.5?
17 I mean, isn't that the range? I think it's something like
18 that, right? Point oh four to two point five? Five to
19 two and a half and the material can't meet the melt
20 standards in that range?

21 MR. McCAY: It did not pass the melt index test.
22 We went ahead and tested it. We couldn't blow it. We're
23 testing now with the same company. They're doing
24 different blends, we're doing different concentrations.
25 But at that point -- we want -- anybody that had any

1 quantity, come to us and we'll test it.

2 The standards up there -- these are the minimum
3 requirements that are really necessary for us to
4 manufacturer a trash bag. We didn't set them. The Board
5 set them. But we believed in them, because those are
6 basically our standards as well. Unfortunately, those
7 standards haven't been met.

8 Staff believes there's a magic bullet or a pill
9 out there that we know of that we can tell these suppliers
10 they can add something to this material and magically make
11 it meet the standards and we're able to use. We don't
12 know of any. That's what we're struggling with.

13 CHAIRPERSON JONES: So you're saying that the
14 melt standard of the material delivered to you was either
15 .5 or less, or above 2.5?

16 MR. McCAY: I wasn't involved in the testing.
17 I'm far removed from that. We have about four samples.
18 The majority of them failed the melt index. The other one
19 failed the tensile strength.

20 The one that failed the tensile strength had some
21 other problems with it. So we haven't been negotiating
22 with that supplier at all. We're working with the other
23 company that failed the melt index, because we think
24 there's an opportunity there to make it work.

25 CHAIRPERSON JONES: Because the melt index in our

1 regs, quite frankly are so broad that it doesn't allow a
2 lot of bag manufacturers the quality control they need.
3 But your testimony is that this stuff didn't even meet
4 anything from .5 to 2.5. That's the widest range in your
5 spec and you're saying that the material that came in
6 didn't even meet that.

7 So I'm learning as quickly as I can on this
8 material. I don't know of another plastic resin that's
9 going to melt a whole lot differently than within those
10 spec. I mean --

11 MR. McCAY: Actually, we provided the staff with
12 the results of the testing that we conducted with those
13 samples. So again, we have those records. We can go
14 through them. If you'd be patient, we can go through and
15 find out exactly what the number came out. But they
16 obviously have the numbers as well.

17 CHAIRPERSON JONES: It just seemed odd because
18 most people -- I'm hearing they want them tighter than how
19 broad you guys have it. So I can't imagine any kind of
20 PCR that could have ever gone that couldn't hit the melt
21 test. Not if it's that broad, I mean, it's illogical.

22 MR. LEAON: Mr. Chairman, we do have that
23 information from Clorox. However, Clorox did ask that we
24 keep their range confidential for the index.

25 CHAIRPERSON JONES: Don't say anything then.

1 Okay. Anything else you'd like to add? Thanks.

2 All right. Our last speaker, and then we're
3 going to take a break.

4 Gregory Moriarity from Trans Western Polymers,
5 who actually I had a pretty good meeting with, but may not
6 be happy with the way this day is going.

7 Go ahead.

8 MR. MORIARITY: Chairman Jones, Members.

9 There's only one point that I want to touch on,
10 and that is that through 2002's reporting year and to date
11 in 2003, we have been working very closely with various
12 members of the staff and we recognize that most of the
13 current staff members we're dealing with are a bit
14 different than the people we were dealing with in 2002.

15 Through the 2002 reporting period, we were
16 reporting the problems that we were facing, what the
17 particular strategy we were taking to overcome the
18 problems that are well known to everyone dealing with the
19 source of supply, and that up until last month's
20 redirection to the specific language in the regulations,
21 that the staff had been reporting to us that they were
22 satisfied with the efforts we were making.

23 So, through 2002, the strategy that we had been
24 taking had been at least the feedback we had been getting
25 from the staff was that they felt that this met the

1 reasonable definition of due diligence, and we've
2 continued with that same strategy through 2003 to put us
3 in a better position to be able to deal with these issues
4 going forward.

5 So that's really the only thing I want to refocus
6 on for Trans Western is that through 2002 the staff seemed
7 to feel that what we were doing would constitute due
8 diligence and this was something they were satisfied with.

9 CHAIRPERSON JONES: And I think as we met that
10 due diligence included changing extruders, which would be
11 a normal business operation. But yours were a little bit
12 tighter clearance to try to use the material.

13 MR. MORIARITY: That's correct.

14 CHAIRPERSON JONES: Okay. Questions? All right.

15 MR. MORIARITY: Thank you.

16 CHAIRPERSON JONES: All right, members. We
17 are -- any discussion?

18 COMMITTEE MEMBER WASHINGTON: I guess, Mr. Chair,
19 I'm of the -- if the Trans Western gentleman just came up
20 and said that there was discussion of due diligence, why,
21 then, are we giving them Option 2? And it sounds like
22 Clorox have made every attempt and staff have rejected
23 that attempt based on a discussion they had with people
24 who said, "No, don't provide them information."

25 I don't understand how we can put them on the

1 Option 2 if they made these attempts. Maybe you are, or
2 anyone who want to clarify how do we penalize them if they
3 made these attempts, if there's due diligence, and not
4 afford them an opportunity like Poly-America and the other
5 company.

6 MR. LEAON: Just to clarify, Mr. Washington, are
7 you speaking of due diligence for Trans Western or Clorox?

8 COMMITTEE MEMBER WASHINGTON: I kind of mixed
9 both of them together. What I heard from both sides we
10 did due diligence. We tried to get this information so we
11 can be brought up to standard and you did just say yes,
12 they have attempted to get this list from us, but we were
13 asked by the individuals not to provide the list for them.

14 I don't know if that helped, what I'm sitting
15 here saying is wanting judgment. I don't know how Clorox
16 can get to that point if we don't provide an opportunity
17 for them to get that.

18 MR. LEAON: Okay. Well, let me address the issue
19 on the suppliers first in the list. The reporting period
20 we're dealing with is 2000/2002. This process that we
21 went through in the last month and doing a phone survey of
22 manufacturers, identifying new suppliers through that
23 process.

24 COMMITTEE MEMBER WASHINGTON: If you want to, you
25 can, you know, you don't have to beat around the bush.

1 Tell me exactly what they're saying contrary to what you
2 believed happened. Did they just miss the boat in terms
3 of now they all of a sudden want to get this information?

4 MR. LEAON: I think in Clorox's case they got
5 material. They tested it, but failed to follow up.
6 That's the bottom line from Clorox.

7 For Trans Western --

8 COMMITTEE MEMBER WASHINGTON: That had nothing to
9 do with based on them trying to get that information from
10 you guys.

11 MR. LEAON: That's correct -- totally unrelated.

12 For Trans Western, they purchased material in
13 2001, and attempted to run that material in 2002 again.
14 And under the requirements of the regulations, they are
15 required to attempt to source material in each reporting
16 period. When that material from 2001, we were not able to
17 process that material. They then did not follow up with
18 attempting to obtain a better quality material, even from
19 that supplier or a different supplier, and on that basis,
20 staff feels we cannot recommend approval for their
21 exemption.

22 CHAIRPERSON JONES: There's a couple things here,
23 and I don't know if this -- did they give using this
24 letter? Clorox? They just passed it out, so it's not
25 confidential. Because here where you're asking, when

1 you're talking to SynCot Plastics, you're requesting on
2 the melt index .5 to 1.5 And yet, the standards that your
3 company said, and basically you just said you guys put in,
4 was .5 to 2.5, right.

5 So you're asking -- which I don't have any
6 problem with you asking for material, but it's kind of
7 like you can do whatever the regs say -- they're your
8 thing, but yet you're asking people for a different melt
9 index than what's in the reg, which you have a right to.
10 You get a better bag.

11 That illustrates the need to come back together
12 and come up with a real standard, but I can't imagine if
13 your spec, which the Board followed through with all the
14 stakeholders was .5 to 2.5, and the testimony is none of
15 the stuff met the melt test, I don't know of a range
16 bigger than that, you know. Your own letter to SynCot
17 asked for one tighter than that.

18 So I'm just, you know, confused with the
19 testimony. I think that the one thing that this exercise
20 has done is it's said that the Board or -- the Board was
21 willing to wait a month to see if these exemptions were
22 really, should just go down to road without any review.
23 And we sure as heck got an awful lot of information that
24 was contrary to what we had been given.

25 The sanctions that would come out of Option 2 to

1 disapprove the exemptions would be --

2 DEPUTY DIRECTOR WOHL: They basically can't sell
3 to the State, but they can't sell to the State anyway,
4 because the State has a mandate to buy a recycled content
5 bag. So, if you have zero recycled content you're not
6 selling to the State anyway.

7 MR. ORR: Just to piggyback on that, it means you
8 can't contract for other products for the State, it's not
9 just trash bags.

10 CHAIRPERSON JONES: It's Clorox and bleach and
11 all the other good stuff. You know, well, you know what,
12 maybe that's the best thing about this law, that, you
13 know, somebody actually put some teeth in this one, and
14 just -- we were asleep at the wheel for a while as Board
15 members.

16 I'll take responsibility for a lot of that. I
17 sat here longer than anybody.

18 Go ahead.

19 COMMITTEE MEMBER PEACE: You said that Pactiv and
20 Poly-America, they use their own scrap. Is that was how
21 they got --

22 MR. LEAON: That's correct. They source their
23 own scrap.

24 COMMITTEE MEMBER PEACE: And Trans Western try to
25 use their own scrap?

1 MR. LEAON: They don't have the processing
2 facility to turn that scrap into pellets, so that wasn't
3 an option for them.

4 CHAIRPERSON JONES: Do they sell their scrap?

5 MR. PENDLETON: Ms. Peace, I believe your
6 question was that Pactiv and Poly-America used their own
7 scrap. We do use our own scrap, but what we buy is
8 post-consumer material that is considered scrap from other
9 companies. Then we reprocess that material. We wash that
10 material. Reprocess that material and try to make plastic
11 bags out of it.

12 MR. MORIARITY: Yes. Trans Western does use its
13 own scrap. What the regulations require is outsourcing
14 either other supply post-consumer.

15 The reason that we had taken the approach that we
16 did in 2002, and so far to date in 2003, is the product
17 line that we serve has the highest specs of the entire
18 trash bag market. We serve the segment with the highest
19 performance specs.

20 That's why, because of the supply situation
21 that's facing everyone as a manufacturer, we have found
22 that for us to best option in terms of achieving
23 compliance would be to try to upgrade equipment and
24 processes to make ourselves fit with what the supply is,
25 rather than trying to make various different types of

1 supply work with our specifications. Because of the
2 problems that everyone faces, for Trans Western in
3 particular, these problems are even more exaggerated
4 because of the specs that our customers require of us.

5 So that's why for us in order to comply, though
6 the regulations language reads that we could have been in
7 compliance by using nothing if we had continued to do very
8 aggressive outsourcing testing and contacting of vendors
9 who the staff at the time had acknowledged basically did
10 not exist on the scale that the four largest manufacturers
11 required.

12 That's why we took the option of trying to
13 develop internally what factors we could control, so that
14 we could be in better position to increase our rates of
15 compliance, and staff was aware of that through 2002.

16 At no point during 2002's reporting period while
17 we were in contact with the staff did anyone indicate this
18 would not be an acceptable option for us. That's why up
19 to including up to the last month we have been dealing
20 with these issues in 2000 three we have continued with the
21 same sets we were taking in 2002.

22 So we had been under the impression that was
23 something that would satisfy the Board's requirements
24 insofar as Trans Western is concerned.

25 CHAIRPERSON JONES: Okay. Thanks. I'm going to

1 ask our staff counsel a question.

2 Is there a similar exercise going on for 2003? I
3 mean, well, 2002 is -- we're talking about 2002 with this
4 one, right?

5 MS. BORZELLERI: Correct.

6 CHAIRPERSON JONES: 2003 will have the same type
7 of --

8 MS. BORZELLERI: Correct.

9 CHAIRPERSON JONES: -- routine. We don't know
10 if -- I mean, it sounds like, you know, those folks are in
11 the same position in 2003 as they are in 2002. Is there
12 the possibility to change this resolution if the members
13 will allow? Do we have to make a finding of exemption or,
14 I mean of self-exemption or failure to self-exempt?

15 MS. BORZELLERI: Well, I think really we -- each
16 of these companies need to know if they're in compliance
17 or not in compliance, and I think it would be good for the
18 Board to make that determination.

19 If the -- you know, and it really is up to the
20 Board. You have a lot of discretion here. Staff's made a
21 recommendation. You can say you believe they did due
22 diligence and approve the exemption.

23 So -- but I do believe that the Board does need
24 to make a determination so we can say whether these
25 companies are compliant or not.

1 CHAIRPERSON JONES: I think that this creates a
2 tough situation, because the entire plastics industry is
3 looking to see if we really mean what we say. I think
4 that we've shown in the past that we mean what we say. I
5 don't know about the timing always being perfect on this
6 one, just because of what the original staff option was.

7 But I'm wondering if we can't -- I think it's
8 more important, especially at this point -- I'm very, very
9 concerned about the testimony and -- both in my office and
10 here -- about the range and no range. I think I had some
11 pretty candid conversations. I appreciate that I learned
12 an awful lot in a quick period of time.

13 But, you know, we've got suppliers of this
14 material that are dead meat without us. And
15 unfortunately, those people get material from my industry
16 as well as others. And as long as I've been in this
17 business I've had to collect it and when I ain't going to
18 market to sell it in, I'm not a happy camper.

19 So I would like to resolve that these four
20 companies did run into obstacles to comply this year, but
21 that they be mandated to meet with us, and I'll be more
22 than happy to chair this workshop, along with suppliers of
23 PCR, to come up with a standard. If point five to two
24 point five is wrong, and it sounds like it's even wrong
25 for the company that established it, then we need to

1 figure out what all of these folks need for melt range and
2 things so the suppliers of material, those people that are
3 relying on us to keep the markets -- every letter I had
4 said without you guys holding these people's feet to the
5 fire this thing is going to blow apart. And I tend to
6 agree with them.

7 So I really wouldn't have a problem with staff
8 recommendation, but I'm more concerned that we fix
9 whatever those range issues are and make sure that
10 suppliers can supply it so that end users end up having to
11 use it. Because I don't -- I get real nervous when I talk
12 to one of these folks and they say, "We won't buy PCR.
13 We're only going to by scrap. We're only going to take
14 scrap."

15 That bothers me, because that flies right in the
16 face of what we're trying to do. Do I have, I mean does
17 that make some kind of sense that we convene that working
18 group within the next 45 days and start coming up with
19 what is going to be a standard?

20 MR. LEAON: Mr. Chairman, if I could interject
21 just briefly.

22 I do want to point out we do have a quality
23 assurance quality control contract through CSU Chico to
24 address some of these quality issues, so --

25 CHAIRPERSON JONES: But that's not what I'm

1 looking at. I'm listening to four different sets of
2 vendors or manufacturers each tell me a different problem
3 with this program. And then I'm hearing suppliers, as
4 well as -- our staff is hearing from suppliers.

5 If these manufacturers would have called us back
6 and made a commitment to buy the material, we would put in
7 the line. We would do what we have to do. That's an
8 opportunity, in my mind, to move a market. But it ain't
9 going to happen if we can't get both sides in the room to
10 figure out how to, you know, right now we have melt index
11 and we have tensile and we've got a couple other things.

12 We may need to be looking at three or four other
13 pieces, but always remembering that the processing of
14 recovered material is not a fine science. These
15 processors -- while these guys may want the stuff to be
16 pristine, the processors aren't going to be able to test
17 every little batch to come up with a number.

18 So we've got to figure out a way that their
19 product line survives with the recovered product. So
20 would that make sense to the members or do you want to go
21 with the resolution?

22 COMMITTEE MEMBER WASHINGTON: It makes sense to
23 me.

24 CHAIRPERSON JONES: I want to make a motion
25 that -- I want to make one resolution revised, that all

1 four of these companies for the purposes of this exercise
2 have complied with the, with their exemption, Option 1,
3 but that all four of these companies will participate
4 within the next 60 days in a Board-sponsored workshop with
5 suppliers of PCR to come up with a -- to talk about fine
6 tuning the standard and the supply. Because it isn't
7 going to do us any good to have a standard that these
8 aren't going to buy.

9 COMMITTEE MEMBER WASHINGTON: Second.

10 CHAIRPERSON JONES: All right. This is only
11 going to go forward to the Board. There will be a
12 discussion I'm sure at the Board. But we'll give them a
13 sense of if we want to do this or not. There can always
14 be a substitute motion and the substitute motion would be
15 to go along with staff proposal. Just understand that.

16 Okay.

17 COMMITTEE MEMBER PEACE: I guess the substitute
18 motion would be, I would like to go along with staff's
19 proposal and still have the workshop that Mr. Jones is
20 talking about.

21 CHAIRPERSON JONES: Okay. So that's the
22 substitute motion. Go with the staff's proposal and
23 include the workshop.

24 You know what? We're going to bring both those
25 options to the full Board as two options that we can do.

1 All right. We're going to take a break.

2 We'll be back in at 4:00.

3 (Thereupon a recess was taken.)

4 CHAIRPERSON JONES: We're going to reconvene.

5 We're looking -- Ms. Peace, any ex partes?

6 COMMITTEE MEMBER PEACE: No. I have none.

7 CHAIRPERSON JONES: I have one.

8 Laurie Nelson just briefly in the hallway. And I
9 think I said hello to the guy from Hefty Bags, whatever
10 company that was.

11 Mr. Schiavo, I have to be in Fresno sometime
12 tonight, which means I'm driving. So let's zip.

13 DEPUTY DIRECTOR SCHIAVO: I'll skip over all the
14 other stuff and go right to the items.

15 Pat Schiavo, Diversion, Planning, and Local
16 Assistance. And the first item number 6 will be presented
17 by Maria Kakutani. This is consideration of the adequacy
18 of the five-year review report for the countywide
19 integrated waste management plan for Orange County, and we
20 have brief presentations.

21 MS. KAKUTANI: Good afternoon, Chairman Jones and
22 Committee members.

23 Each county is required to review, and if
24 necessary, revise countywide integrated waste management
25 plan every five years.

1 The County of Orange has submitted its report and
2 its five-year review of the countywide integrated waste
3 management plan. The County determined that a revision of
4 the County's plan is not necessary at this time. Board
5 staff has evaluated the County's review report and
6 determined that the required elements have been addressed.
7 Therefore, it is staff's recommendation that the Board
8 approve the County's assessment that no revision is
9 necessary.

10 This concludes my presentation.

11 CHAIRPERSON JONES: That's what I like. All
12 right.

13 Any questions?

14 Ms. Peace.

15 COMMITTEE MEMBER PEACE: I'd like to move
16 Resolution Number 2003-437, consideration of the adequacy
17 of the five-year review report from the countywide
18 integrated waste management plan for Orange County.

19 CHAIRPERSON JONES: I'd second.

20 Jennine, could you call the roll.

21 SECRETARY BAKULICH: Peace?

22 COMMITTEE MEMBER PEACE: Aye.

23 SECRETARY BAKULICH: Washington?

24 Jones?

25 CHAIRPERSON JONES: Aye.

1 Mr. Washington is gone. He won't be joining us.

2 I'm going to put this forward on consent. It's
3 got a 2-0 vote.

4 Next item.

5 DEPUTY DIRECTOR SCHIAVO: We'd like to combine
6 the next three items. These are consideration of the
7 request to change the base year to 2000 for the previously
8 approved source reduction and recycling element for the
9 cities of Farmersville and Exeter, both in Tulare County,
10 and finally consideration of the amended consolidated
11 waste management's authority regional agency agreement.
12 And Tabetha Willmon will make the presentation.

13 MS. WILLMON: Good afternoon. I'd like to remind
14 everyone that we made changes to Section 2B, some
15 revisions, but those were just for the first two pages.
16 So you won't need to replace the whole attachment. The
17 cities of Exeter and Farmersville submitted requests to
18 change their base year from 1990 to 2000. The City of
19 Exeter originally submitted a new base year request for
20 the diversion rated of 23 percent for 2000. With the
21 Board staff recommended the new base year the City's
22 diversion rate would be set 27 percent.

23 The City of Farmersville originally submitted a
24 new base year request with the diversion rate of 35
25 percent for 2000 with Board staff recommended new base

1 year of the City's diversion rate would be 34 percent.

2 Board staff verified the data submitted for both
3 cities and staff-proposed changes can be seen in their
4 entirety in attachments three for each agenda item. No
5 extrapolation or business surveys were used to calculate
6 the diversion amounts and this request is generally
7 consistent with Board standards for accuracy.

8 Board staff therefore recommend the Board adopt
9 option two, which would approve the revised base year
10 change with staff recommendations for both Exeter and
11 Farmersville.

12 On December 8th, 1999, an agreement was entered
13 into by the cities of Visalia, Porterville, Lindsay,
14 Dinuba and Tulare to create a joint powers authority.

15 On December 14th, 1999, the Board approved their
16 formation as a regional agency known as the Consolidated
17 Waste Management Authority or CWMA.

18 Effective November 26, 2002, a the CWMA amended
19 its joint powers authority to include the cities of
20 Exeter, Farmersville and Woodlake as new members of the
21 JPA.

22 They are now requesting the Board to approve the
23 regional agency and include as members cities of Exeter,
24 Farmersville and Woodlake.

25 Staff has determined that by combining the Board

1 approved base year information for the member
2 jurisdictions the proposed regional agency diversion rate
3 would be 50 percent for the year 2000.

4 Additionally, I'd like to mention that Tulare
5 County, as identified in their SB 1066 plan, also plans to
6 join the regional agency in the future.

7 Public Resources Code 40970 allows cities and
8 counties to form a regional agency for the purpose of
9 meeting the state's waste diversion goals. If approved by
10 the Board, the agency will be responsible for compliance
11 with the waste diversion requirements set forth in PRC
12 41780.

13 As noted in the agenda item, Exeter and
14 Farmersville have SB 1066 time extensions. Recognizing
15 the emphasis on program implementation and previous
16 determinations by this Board with regard to the plan of
17 correction needed by these two cities, Board staff are
18 recommending that if the Board approves the regional
19 agency it also places conditions to require that the
20 program activities specified in each of the members cities
21 time extension also be completed.

22 Board staff recommends that the Board approve
23 option two, which is the authorization of this amendment
24 to the regional agency formation agreement conditioned
25 with the requirement that the program activities specified

1 in the participating cities' time extensions also be
2 completed and fully implemented.

3 This concludes my presentation.

4 CHAIRPERSON JONES: Quick question. Is the
5 agency aware of these conditions that we're talking about
6 here?

7 MS. WILLMON: Yes, we are.

8 CHAIRPERSON JONES: Okay. And nobody's here to
9 speak on this issue.

10 MS. WILLMON: Yes, actually.

11 CHAIRPERSON JONES: They are if they need to, or
12 they are -- okay, gotcha.

13 All right. We've got three resolutions.

14 COMMITTEE MEMBER PEACE: Can I ask a question?

15 CHAIRPERSON JONES: Certainly, Ms. Peace.

16 COMMITTEE MEMBER PEACE: On this regional agency,
17 it's working fairly well, then? All these different
18 cities contiguous in this regional agency.

19 DEPUTY DIRECTOR SCHIAVO: Actually, there's five
20 cities in the county and then the unincorporated county
21 runs around them all -- around and through. So they don't
22 touch, but the county --

23 CHAIRPERSON JONES: They're all part of a whole,
24 though because of the county, which is --

25 MS. WILLMON: Yeah. Currently, the previous

1 regional agency agreement included five cities. Three
2 more are joining and the county also plans to join. They
3 have a SB 1066. They're working on some things, but the
4 plan is for the whole entire county to be a regional
5 agency.

6 COMMITTEE MEMBER PEACE: Thank you.

7 CHAIRPERSON JONES: Okay. I'm going to move, or
8 do you want to?

9 COMMITTEE MEMBER PEACE: I'm okay to move it.

10 CHAIRPERSON JONES: I'm going to move adoption of
11 Resolution 2003-438, consideration of the request to
12 change the base year from 2000 for previously approved
13 SRRE for the city of Farmersville, Tulare County.

14 COMMITTEE MEMBER PEACE: Revised.

15 CHAIRPERSON JONES: Revised. And -- do you want
16 to second?

17 COMMITTEE MEMBER PEACE: Second.

18 CHAIRPERSON JONES: Okay. Resolution -- we'll
19 vote on all three of these as one. Resolution 2003-439,
20 consideration of request to change the base year to 2000
21 for the previously approved SRRE for the city of Exeter in
22 Tulare County.

23 COMMITTEE MEMBER PEACE: Second.

24 CHAIRPERSON JONES: And -- thank you, and
25 resolution 2003-440, consideration of amended consolidated

1 waste management authority regional agency agreement for
2 Tulare County, which would have been Option 2, revised.

3 COMMITTEE MEMBER PEACE: Second.

4 CHAIRPERSON JONES: All right.

5 Jennine, could you substitute the previous roll
6 on these? Thank you.

7 On consent? Perfect. All right.

8 Next item. Thank you.

9 DEPUTY DIRECTOR SCHIAVO: Kyle Pogue will present
10 Item 10, which is consideration of the adequacy of the
11 five-year review for the Yuba/Sutter regional management
12 authority's integrated waste management plan.

13 MR. POGUE: Good afternoon.

14 I'll make this really quick. The Yuba/Sutter
15 Regional Waste Management Authority has submitted a report
16 of its five-year review of the regional agency integrated
17 waste management plan or RAWMP. In concurrence with the
18 local task force, YSRWNA determined that no revisions to
19 the RAWMP were necessary at the time of the review.

20 Board staff has evaluated the report and agrees
21 that the RAWMP elements adequately represent the waste
22 management directions and priorities. This regional
23 authority should continue to pursue in the future.

24 Therefore, it is staff's recommendation the Board
25 approve the authority's five-year review report.

1 This concludes my presentation. Keith Martin is
2 available for any questions, and Keith, thanks for hanging
3 on.

4 CHAIRPERSON JONES: All right. Questions?
5 Ms. Peace.

6 COMMITTEE MEMBER PEACE: I'd like to move
7 Resolution Number 2003-436, consideration of the adequacy
8 of the five-year review report for Yuba/Sutter Regional
9 Waste Management Authority's regional agency integrated
10 waste management plan.

11 CHAIRPERSON JONES: That's easy for you to say.
12 I'll second it.

13 Substitute the previous roll. On consent. Thank
14 you, members.

15 Item 11.

16 DEPUTY DIRECTOR SCHIAVO: Item 11, consideration
17 of the proposed compliance schedule for completing and
18 submitting the source reduction and recycling element,
19 household hazardous waste element, and nondisposal
20 facility element by the newly incorporated city of Goleta,
21 in Santa Barbara County. And Nikki Mizwinski will present
22 this item.

23 MS. MIZWINSKI: I'll make it really quick.

24 Good afternoon, Committee Members. The City of
25 Goleta incorporated on February 1st, 2002. Goleta's

1 18-month time frame to submit planning documents ended on
2 August 1st, 2003.

3 The City of Goleta submitted a compliance
4 schedule for completing and submitting its source
5 reduction and recycling element, household hazardous waste
6 element, also their nondisposal facility element. The
7 City has chosen to comply with the planning document
8 requirements by forming a regional agency with Santa
9 Barbara County by November the 23rd of 2003.

10 Based on the compliance schedule, which is
11 Attachment 1 to the agenda item, Board staff determined
12 that the reasons for a time frame extension are adequate
13 and the extension period is reasonable.

14 Kimberly Nelson from the City is here to answer
15 any questions today.

16 That concludes my presentation. Are there any
17 questions for staff?

18 COMMITTEE MEMBER PEACE: I have no questions.

19 CHAIRPERSON JONES: So this time frame will allow
20 all the necessary time to get them as part of the agency
21 or part of the agency before they incorporate, right?

22 Okay. Go ahead, Ms. Peace.

23 COMMITTEE MEMBER PEACE: With that I'd like to
24 move Resolution Number 2003-443, consideration for
25 completing and submitting the source reduction recycling

1 element for nondisposal facility element by the newly
2 incorporated city of Goleta, Santa Barbara County.

3 CHAIRPERSON JONES: Second. Substitute the
4 previous roll. On consent. Thank you.

5 Next item.

6 DEPUTY DIRECTOR SCHIAVO: Item 12 is actually
7 scheduled for the full Board.

8 CHAIRPERSON JONES: I'm sorry.

9 DEPUTY DIRECTOR SCHIAVO: On Tuesday afternoon,
10 the 16th.

11 CHAIRPERSON JONES: That's end of it. Any public
12 comment?

13 This is adjourned. We appreciate everybody's
14 efforts.

15 (Thereupon the California Integrated Waste
16 Management Board, Sustainability and Market
17 Development Committee adjourned at 5:15 p.m.)

18

19

20

21

22

23

24

25

1 CERTIFICATE OF REPORTER

2 I, TIFFANY C. KRAFT, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing hearing was reported in shorthand by me,
7 Tiffany C. Kraft, a Certified Shorthand Reporter of the
8 State of California, and thereafter transcribed into
9 typewriting.

10 I further certify that I am not of counsel or
11 attorney for any of the parties to said hearing nor in any
12 way interested in the outcome of said hearing.

13 IN WITNESS WHEREOF, I have hereunto set my hand
14 this 21st day of September, 2003.

15

16

17

18

19

20

21

22

23 TIFFANY C. KRAFT, CSR, RPR

24 Certified Shorthand Reporter

25 License No. 12277